

STATE OF MICHIGAN

SUPREME COURT

THE TITLE OFFICE, INC.,
a Michigan corporation,

Plaintiff-Appellee,

v

FULTON J. SHEEN, Allegan County
Treasurer, SANDRA THATCHER, Branch
County Treasurer, GARY LEININGER,
Hillsdale County Treasurer, NANCY HICKEY,
Ionia County Treasurer, JANET ROCHEFORT,
Jackson County Treasurer, HERMAN DRENTH,
Kalamazoo County Treasurer, DIANNE H.
HARDY, Livingston County Treasurer, KAREN
MAKAY, Van Buren County Treasurer,

Defendants-Appellants.

Supreme Court
Case Nos. 121177 and 121178

Court of Appeals
Case Nos. 225376 and 225377

44th Circuit Court
County of Livingston
Case No. 99-17173-CZ

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**BRIEF OF AMICUS CURIAE
MICHIGAN ASSOCIATION OF COUNTY TREASURERS
IN SUPPORT OF DEFENDANTS-APPELLANTS**

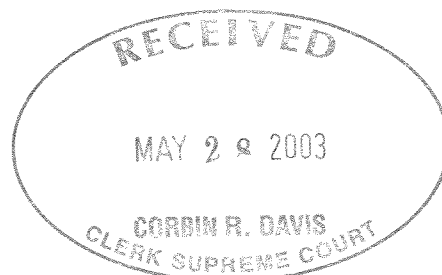


TABLE OF CONTENTS

INDEX OF AUTHORITIES.....	ii
STATEMENT OF INTEREST OF AMICUS CURIAE	vi
STATEMENT OF JUDGMENT APPEALED FROM, MATERIAL PROCEEDINGS BELOW, AND STATEMENT OF RELIEF SOUGHT	viii
STATEMENT OF JURISDICTION.....	x
QUESTION PRESENTED FOR REVIEW	xi
STANDARD OF REVIEW	xii
STATEMENT OF FACTS	1
A. The Office and Duties of County Treasurers	1
B. The Michigan Freedom of Information Act	2
C. The Transcripts and Abstracts of Records Act	3
D. Title Office's Request for Three Years of Property Tax Records from Eight County Treasurers and the Resulting Litigation.	4
ARGUMENT	7
A. Summary of Argument.....	7
B. The Plain Language of TARA and FOIA Is Unambiguous and Demonstrates That TARA Applies to Title Office's Request for Property Tax Records on Computer Disk.	8
1. According to the Plain Language of TARA and FOIA, the Fees Specifically Set Forth in TARA Apply to Title Office's Request for County Treasurer Records	9
2. As Originally Enacted, the Applicability of TARA Was Not Limited to Transcripts Provided With Then-Existing Technology.	10
3. The Interpretation of TARA Urged by Title Office and Adopted by the Trial Court and the <i>Oakland County Treasurer</i> Court Improperly Inserts Words Into TARA	12
C. Legislative History and the Apparent Purpose of TARA Support the Applicability of the Fees Set Forth in TARA to Records Provided on a Computer Disk.	14
CONCLUSION.....	17

INDEX OF AUTHORITIES

Cases

<i>Byker v Mannes</i> , 465 Mich 636-37; 641 NW2d 210 (2002)	13
<i>Chandler v County of Muskegon</i> , 467 Mich 315; 652 NW2d 224 (2002)	9, 11
<i>City of Lansing v Lansing Twp</i> , 356 Mich 641; 97 NW2d 804 (1959)	12
<i>DiBenedetto v West Shore Hospital</i> , 461 Mich 394; 605 NW2d 300 (2000)	9
<i>Farrington v Total Petroleum, Inc</i> , 442 Mich 201; 501 NW2d 76 (1993).....	9
<i>Grebner v Clinton Charter Twp</i> , 216 Mich App 736; 550 NW2d 265 (1996).....	8
<i>Horace v City of Pontiac</i> , 456 Mich 744; 575 NW2d 762 (1998)	9
<i>Huggett v Dep't of Natural Resources</i> , 464 Mich 711; 629 NW2d 915 (2001)	9
<i>In re Certified Question</i> , ___ Mich ___; 659 NW2d 597, 600 (2003)	11, 14
<i>In re MCI Telecommunications Complaint</i> , 460 Mich 396; 596 NW2d 164 (1999)	12
<i>Lorencz v Ford Motor Company</i> , 439 Mich 370; 483 NW2d 844 (1992)	15
<i>Nowell v Titan Insurance Co</i> , 466 Mich 478; 648 NW2d 157 (2002)	9
<i>Oakland County Treasurer v The Title Office, Inc</i> , 245 Mich App 196; 627 NW2d 317 (2001)	passim
<i>Omelenchuk v City of Warren</i> , 461 Mich 567; 609 NW2d 177 (2000).....	13
<i>Omne Financial, Inc v Shacks, Inc.</i> , 460 Mich 305; 596 NW2d 591 (1999)	13
<i>Robertson v DaimlerChrysler Corp</i> , 465 Mich 732; 641 NW2d 567 (2002).....	9, 12
<i>Smith v Globe Life Ins Co</i> , 460 Mich 446; 597 NW2d 28 (1999)	x

<i>State Farm Fire and Casualty v Old Republic Ins Co</i> , 466 Mich 142; 644 NW2d 715 (2002)	12, 13
<i>Title Office, Inc v Van Buren County Treasurer</i> , Case Nos. 225376 and 225377 (Mich App January 18, 2002)	13, 14
<i>Weakland v Toledo Engineering Co, Inc</i> , 467 Mich 344; 656 NW2d 175 (2003)	9
<i>Western Mich Univ Bd of Control v Michigan</i> , 455 Mich 531; 565 NW2d 828 (1997)	9
<i>Wickens v Oakwood Healthcare System</i> , 465 Mich 53; 631 NW2d 686 (2001)	12
Statutes	
MCL 8.3a	9
MCL 129.11	1
MCL 15.231, <i>et seq</i>	iv
MCL 15.232(e)	2
MCL 15.232(h)	2, 10
MCL 15.233(1)	2
MCL 15.234(1)	2, 8, 16
MCL 15.234(4)	3, 7, 8, 15
MCL 15.441, <i>et seq</i>	2
MCL 168.522(1)	16
MCL 211.1, <i>et seq</i>	1
MCL 211.42a	2
MCL 24.401, <i>et seq</i>	2
MCL 45.401	1
MCL 45.402	1
MCL 45.404	1, 15

MCL 48.101	passim
MCL 48.101(1)	5, 7, 9
MCL 48.101(3)	16
MCL 48.101(4)	16
MCL 48.101(5)	16
MCL 48.37	1
MCL 48.40	1
MCL 48.43	1
MCL 48.48	1
MCL 52.113	1
MCL 565.412	1
MCL 600.2529	1
MCL 600.857	1
MCL 600.877	1
MCL 600.880	1
MCL 691.1111, <i>et seq</i>	2
MCL 711.2	1
MCL 774.26	1

Other Authorities

<i>American Dictionary of the English Language</i>	11
<i>Black's Law Dictionary</i> at 1497 (6 th ed. 1990)	10
<i>Random House Webster's College Dictionary</i> (1997)	9, 10

Rules

MCR 2.116(C)(10)	x
------------------------	---

MCR 7.215(I)(1)	6
MCR 7.301(A)(2)	viii
MCR 7.302.....	viii
Constitutional Provisions	
Const 1963, art 7, § 4	1
Legislative History	
1895 PA 161, Eff Aug 30, 1895	3, 11, 13, 16
1897 PA 21, Eff Aug 30, 1897	14
1899 PA 211, Eff Sep 23, 1899	14
1903 PA 173, Eff Sep 17, 1903	14
1949 PA 101, Eff May 17, 1949	14
1957 PA 49, Eff Sep 27, 1957	14
1974 PA 141, Eff June 5, 1974	14
1984 PA 291, Eff Dec 20, 1984	14
HB 6085, introduced March 8, 1976	15
<i>Memorandum to Members of the House Civil Rights Committee (June 22, 1976)</i>	15

STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus Curiae, Michigan Association of County Treasurers (“MACT”), is a non-profit incorporated association formed in 1934, which includes as its members every county treasurer from the State of Michigan’s 83 counties. *See* Aff of Joan L. Balch, ¶ 3, attached as Exh A to the Motion for Leave to File Brief as *Amicus Curiae* of Michigan Association of County Treasurers, which is concurrently filed with this Brief. MACT is the unified voice for county treasurers in the State of Michigan. *See* Aff of Joan L. Balch, ¶ 4.

On January 18, 2002, the Court of Appeals issued a decision affirming the trial court in this case, which held that the Transcripts and Abstracts of Records Act, 1895 PA 161, as amended, MCL 48.101 (“TARA”), does not apply to a request for records on computer tape or disk. Exhs at 36A-44A; Exhs at 30A-34A. According to the trial court, fees that county treasurers may charge for records on that medium are governed by the Michigan Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231, *et seq* (“FOIA”). While the Court of Appeals actually disagreed with the trial court in this case, it found that it was bound to follow the previous decision of a different panel of the Court of Appeals in *Oakland County Treasurer v The Title Office, Inc*, 245 Mich App 196; 627 NW2d 317 (2001); Exhs at 43A-44A.

For 108 years, county treasurers have used TARA to determine the fees applicable to requests for transcripts of their papers or records. MCL 48.101. Given the manner in which county treasurer records are maintained and reproduced using current technology, however, the trial court’s holding in this case that was affirmed by the Court of Appeals below largely eviscerates TARA.

The trial court’s finding that TARA does not apply to requests for county treasurer records on computer disk, which was affirmed by the Court of Appeals below, raises an issue of

vital concern to MACT and its members. In light of the statewide perspective of its organization and the aggregate experience of its membership, MACT is particularly qualified to assist this Court in resolving the important issue raised in this case.

**STATEMENT OF JUDGMENT APPEALED FROM, MATERIAL PROCEEDINGS
BELOW, AND STATEMENT OF RELIEF SOUGHT**

On October 28, 1998, Plaintiff-Appellee Title Office, Inc. ("Title Office") initiated this proceeding by filing a complaint in the Ottawa County Circuit Court against Defendants-Appellants, who are the county treasurers from Van Buren, Allegan, Branch, Hillsdale, Ionia, Jackson, Kalamazoo, and Livingston counties (the "County Treasurers"). In its complaint, Title Office alleged that the County Treasurers violated FOIA by attempting to charge fees under TARA in response to its request for an electronic copy of all property tax records for the years 1995, 1996, and 1997. The Livingston County Treasurer subsequently filed a complaint in the Livingston County Circuit Court seeking a declaratory judgment that TARA governed the fee it was to charge Title Office for its request. The action filed by Title Office then was moved to the Livingston County Circuit Court and the two cases were consolidated for decision in that court.

On December 29, 1999, the Livingston County Circuit Court granted a motion for summary disposition in favor of Title Office. Exhs at 30A-32A. In its decision, the trial court held that Title Office's request was not a request for a transcript under TARA and the fees provided for in FOIA applied instead. Exhs at 32A. The County Treasurers appealed that decision to the Court of Appeals.

On January 18, 2002, the Court of Appeals issued a decision affirming the trial court. Exhs at 36A-44A. In its decision the Court actually disagreed with the trial court in this case but found it was bound to follow the previous decision of a different panel of the Court of Appeals in *Oakland County Treasurer*, 245 Mich App 196. Exhs at 43A-44A.

The County Treasurers filed Applications for Leave to Appeal the January 18, 2002 decision of the Court of Appeals with this Court dated February 28, 2002 and March 15, 2002. Those Applications were granted by this Court on April 2, 2003.

MACT files this Brief as *amicus curiae* in support of the Briefs on Appeal filed by the County Treasurers, *i.e.*, Defendants-Appellants. MACT joins the County Treasurers in asking this Court to reverse the Court of Appeals decision affirming the trial court's grant of summary disposition in favor of Title Office. For the reasons stated in this Brief and the Briefs submitted by the County Treasurers, *i.e.*, Defendants-Appellants, MACT respectfully urges this Court to find that TARA rather than FOIA sets the fees applicable to Title Office's request for transcripts of county treasurer records.

STATEMENT OF JURISDICTION

This Court has jurisdiction of this case pursuant to MCR 7.301(A)(2) and MCR 7.302.

QUESTION PRESENTED FOR REVIEW

- I. DID THE TRIAL COURT AND COURT OF APPEALS ERR BY HOLDING THAT, IN REGARD TO FEES APPLICABLE TO PROVIDING PROPERTY TAX RECORDS ON A COMPUTER DISK, THE FREEDOM OF INFORMATION ACT APPLIES RATHER THAN THE TRANSCRIPTS AND ABSTRACTS OF RECORDS ACT?**

Defendants-Appellants say, “Yes”.

Plaintiff-Appellee says, “No”.

Amicus Curiae Michigan Association of County Treasurers says, “Yes”.

The Court of Appeals says “No”.

The trial court says “No”.

STANDARD OF REVIEW

A motion for summary disposition under MCR 2.116(C)(10) is reviewed *de novo* on appeal to determine if the moving party is entitled to judgment as a matter of law. *Smith v Globe Life Ins Co*, 460 Mich 446, 454-55; 597 NW2d 28 (1999).

STATEMENT OF FACTS

A. The Office and Duties of County Treasurers.

The office of county treasurer is provided for in the State Constitution, which states that “[t]here shall be elected for four-year terms in each organized county . . . a county treasurer . . . whose duties and powers shall be provided by law.” Const 1963, art 7, § 4. A county treasurer’s office must be “at the seat of justice for the county.” MCL 48.48. Moreover, a county treasurer must appoint a deputy and may hire additional personnel to assist with the performance of his or her duties. MCL 48.37. Each county treasurer is paid a salary that is set by his or her county’s board of commissioners or county officers compensation commission. MCL 48.43; MCL 45.401.

It is the duty of the county treasurer to:

receive all moneys belonging to the county, from whatever source they may be derived; and all moneys received by him for the use of the county, shall be paid by him only on the order of the board of supervisors . . . except when special provision for the payment thereof is or shall be otherwise made by law.

MCL 48.40. “All money received by the county treasurer . . . shall be credited to the general fund of the county.” MCL 45.404. Such funds include fees collected by county clerks, county registers of deeds, courts and others that must be paid over to the county treasurer. *See eg*, MCL 45.402, MCL 52.113, MCL 565.412, MCL 600.857, MCL 600.877, MCL 600.880, MCL 600.2529, MCL 711.2, MCL 774.26. It also includes fees collected by county treasurers under TARA. MCL 48.101. All such funds are “denominated public moneys” and, as noted above, are credited to the general fund of the county in which they are collected. MCL 129.11; MCL 48.40.

Under the General Property Tax Act, 1893 PA 206, as amended, MCL 211.1, *et seq*, a county treasurer additionally collects property taxes and pursues the foreclosure and sale of property on which delinquent taxes are owed but remain unpaid. In furtherance of their duties

under the General Property Tax Act, county treasurers use, maintain and manage records that identify property taxes owed on individual parcels of property. Under Section 42a of the General Property Tax Act, as added by 1990 PA 112, the tax roll in a county showing property tax records may be maintained in a computerized database. MCL 211.42a. The Records Media Act, 1992 PA 116, as amended, MCL 24.401, *et seq*, the Reproduction of Public Records Act, 1992 PA 213, as amended, MCL 691.1111, *et seq*, and the Enhanced Access to Public Records Act, 1996 PA 462, as amended, MCL 15.441, *et seq*, apply to the maintenance of public records by county treasurers.

B. The Michigan Freedom of Information Act.

FOIA gives a person upon written request the right to “receive copies of . . . [a] requested public record of [a] public body.” MCL 15.233(1). It has not been disputed that a county treasurer is a public body. A “public record” is defined under FOIA as:

a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.

MCL 15.232(e). A “writing,” in turn, is defined by FOIA as:

handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

MCL 15.232(h).

Under Section 4 of FOIA, “a public body may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record” and that fee “shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication” MCL 15.234(1). Section 4 further states, however, that:

This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

MCL 15.234(4).

C. The Transcripts and Abstracts of Records Act.

TARA consists of one section. As *originally enacted* in 1895, TARA stated as follows:

AN ACT to require county treasurers to furnish transcripts and abstracts of records, and fixing the fees to be paid therefor.

Section 1. *The People of the State of Michigan enact*, That the county treasurers of the several counties shall make or cause to be made on application therefor, transcripts of any papers or records on file in their offices, upon payment by applicants therefor of the following fees: For abstracts of taxes on any description of land, three cents for each year covered by such abstract or abstracts with statement of names and residences of taxpayers, twelve cents per year for each description of land therein; for list of State [tax] lands or State bids, two cents for each description of land therein; for one copy of any paper or document, at the rate of ten cents per [one] hundred words; for each certificate, twenty-five cents; *Provided*, That in no case shall any abstract, list or copy made as required by this act, be furnished for a less sum than twenty-five cents: *Provided further*, That for statements in respect to the payment of taxes required by section one hundred thirty-five of act two hundred six of the public acts of one thousand eight hundred ninety-three, the county treasurer shall receive twenty-five cents for each statement. All moneys collected under the provisions of this act shall be retained by the county treasurers collecting the same except in the counties of Wayne, Kent, Saginaw and Bay, in which counties such moneys shall be placed by the treasurers collecting the same to the credit of the general fund of the county.

1895 PA 161, Eff Aug 30, 1895 [emphasis and brackets original], see Exhs at 58A.

After being amended several times since 1895, TARA *currently states* as follows:

(1) A county treasurer shall make upon request a transcript of any paper or record on file in the treasurer's office for the following fees:

(a) For an abstract of taxes on any description of land, 25 cents for each year covered by the abstract.

(b) For an abstract with statement of name and residence of taxpayers, 25 cents per year for each description of land covered by the abstract.

(c) For list of state tax lands or state bids, 25 cents for each description of land on the list.

(d) For 1 copy of any paper or document at the rate of 25 cents per 100 words.

(e) For each certificate, 25 cents.

(2) For statements in respect to the payment of taxes required by section 135 of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.135 of the Michigan Compiled Laws, the county treasurer shall receive 20 cents for each description of land contained in the certificate but the total amount paid shall not be less than \$1.00.

(3) In no case shall any abstract, list, copy, or statement made as required by this act, be furnished for a sum less than 50 cents.

(4) All moneys collected under the provisions of this act shall be retained by the county treasurer collecting the same, except in counties in which the county treasurer receives a salary in lieu of all fees, in which counties such moneys shall be placed, by the treasurers collecting the same, to the credit of the general fund of the county.

(5) A charter county with a population of more than 2,000,000 may impose by ordinance a different amount for the fees prescribed by this section. A charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

MCL 48.101.

D. Title Office's Request for Three Years of Property Tax Records from Eight County Treasurers and the Resulting Litigation.

In eight separate letters dated August 14, 1998, Title Office requested under FOIA from the County Treasurers "an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records" of each county. Exhs at 1A-16A. The County Treasurers agreed to

provide the information requested but informed Title Office that the fees set forth in TARA would apply to its request. *See, eg*, Exhs at 17A-29A.

In response, Title Office filed suit against the County Treasurers contending that the fee limitation set forth in Section 4(1) of FOIA applied to its request. On December 29, 1999, the trial court in this case granted Title Office's motion for summary disposition because, as it stated, "[n]othing in [TARA] contemplates making a computerized copy of the records." Exhs at 32A.

On April 3, 2001, in a different case involving the Oakland County Treasurer, the Court of Appeals held that FOIA rather than TARA governed the fee to be charged for a request for property tax records on computer tape or disk. *Oakland County Treasurer*, 245 Mich App 196; Exhs at 90A-94A. In *Oakland County Treasurer*, the Court of Appeals found that TARA did not apply to records contained on computer tape or disk because, as it stated, "the 1895 Legislature did not contemplate a charge for electronic copies when it enacted [TARA]" and the statute was "designed to compensate the county for its cost of manipulating data into certified transcripts" *Oakland County Treasurer*, 245 Mich App at 203; Exhs at 93A.

On appeal in this case, the Court of Appeals affirmed the trial court's decision on January 18, 2002. Exhs at 36A-44A. The Court of Appeals in this case *did* find that TARA *does* apply to Title Office's request for an electronic copy of county treasurer property tax records:

Plaintiff argues that the TARA governs only "written documents" and "paper copies." However, the TARA does not contain the term "written," and it does not state that a county treasurer shall make, upon request, a "paper copy" of its records. Rather, the statute applies broadly, requiring a county treasurer to make, upon request, "a transcript of any paper or record on file in the treasurer's office." MCL 48.101(1). An electronic copy of property tax records qualifies as a "transcript" of that record for purposes of the TARA. The medium on which the record is copied is of no significance. A copy is a copy, whether the information is

handwritten, typed, photocopied, or electronically copied; it remains a copy, whether the information is placed onto paper, magnetic tape, or a computer disk.

Exhs at 43A. *However*, the Court further found that it was bound by MCR 7.215(I)(1) to follow the earlier decision of the Court of Appeals panel in *Oakland County Treasurer, supra*.

The Washtenaw County Circuit Court, in a separate case, also reached a conclusion different than that reached by the Court of Appeals in *Oakland County Treasurer*. That court found that TARA applied to a request for county treasurer records on computer disk because:

the legislature could have easily provided that the FOIA rate take precedence over the rate provision statutes. Instead, via section 4, the legislature explicitly provided two exceptions to the application of the FOIA rate provisions. . . . This case clearly falls under the second exception “or where the amount of the fee for providing a copy of the public record is otherwise specifically provided.”

See Washtenaw County Treasurer v The Title Office, Inc, Case No. 99-10618-CZ, Transcript at 23, attached as Exhibit 8 to Defendants-Appellants Brief in Support of Delayed Application for Leave to Appeal dated March 15, 2002. The Court stayed any action in that case, however, until *Oakland County Treasurer, supra*, was decided. When the Court of Appeals issued its decision in *Oakland County Treasurer*, the Washtenaw County Circuit Court found that case was controlling.¹

This Court granted the County Treasurers’ Applications for Leave to Appeal the January 18, 2002 decision of the Court of Appeals in this consolidated case on April 2, 2003.

¹ After the Court of Appeals affirmed the trial court, the Washtenaw County Treasurer filed an Application for Leave to Appeal that decision with this Court on January 17, 2002. That application is held in abeyance in Case No. 120801.

ARGUMENT

A. Summary of Argument.

According to the plain language of TARA and FOIA, it is clear that TARA rather than FOIA governs the fees applicable to Title Office's request for an electronic copy of county treasurer property tax records.

FOIA expressly states that its fee provision does not apply where the specific amount of a fee for providing a public record is established in another statute. MCL 15.234(4). TARA sets the specific amount of the fee that applies to a request for a "transcript of any paper or record on file" in a county treasurer's office. MCL 48.101(1).

The plain language of TARA demonstrates that a "transcript of any paper or record" includes a transcript of property tax records provided to Title Office on computer disk. As it originally was enacted, moreover, TARA was intended to fix fees for providing transcripts of county treasurer records whether then-existing or subsequently developed technology was used. To adopt a different interpretation of TARA, importantly, one must improperly insert new words into TARA.

Finally, while TARA's language is clear, legislative history and TARA's apparent purpose further support its application to transcripts provided on computer disk. TARA rather than FOIA, accordingly, applies to Title Office's request for property tax records from the County Treasurers.

The *Oakland County Treasurer* Court found that TARA did not apply to a request for electronic copies of records because the 1895 Legislature did not contemplate a charge for electronic copies when it enacted TARA. 245 Mich App at 203; Exhs at 93A. That logic would dictate, however, that while TARA has remained in use and largely unchanged over the last 108

years it essentially applies only to transcripts produced by handwriting on paper with an ink well and a fountain pen. For the reasons discussed below, that view is untenable.

B. The Plain Language of TARA and FOIA Is Unambiguous and Demonstrates that TARA Applies to Title Office's Request for Property Tax Records on Computer Disk.

Section 4 of FOIA limits the fee a public body may charge for providing a public record to the incremental cost of providing the record. MCL 15.234(1). That section *does not apply*, however, where the fee for providing the record is "otherwise specifically provided by an act or statute."² MCL 15.234(4). TARA establishes the specific amount of fees to be paid for "transcripts of any paper or record on file in" the county treasurer's office. MCL 48.101. Thus, TARA rather than FOIA applies to Title Office's request for records from the County Treasurers.

The trial court's ruling and the decision of the Court of Appeals are based on the conclusion that a request for an electronic copy of county treasurer property tax records was not a request for a "transcript of any paper or record on file in the treasurer's office" MCL 48.101. As discussed below, however, the plain meaning of the word "transcript" includes a copy of a record provided on computer disk. Further, as originally enacted, the word "transcript" was not restricted to copies made with then-existing technology. Finally, these points are illustrated by the fact that one must insert new words into TARA to adopt the interpretation urged by Title Office and used by the courts below.

² Notably, in regard to whether TARA applies to Title Office's request under this language, *Grebner v Clinton Charter Twp*, 216 Mich App 736; 550 NW2d 265 (1996) is inapposite because it dealt only with whether a statute provided for the "sale" of public records, another exception provided in Section 4(4) of FOIA. MCL 15.234(4). Moreover, the Michigan Election Law that was at issue in that case stated merely that certain records were to be provided by a city, village or township clerk "upon payment to the clerk of the cost of making, certifying, and delivering" the record. 215 Mich App at 741. In contrast, TARA sets specific fees to be paid for the provision of county treasurer records. MCL 48.101.

1. **According to the Plain Language of TARA and FOIA, the Fees Specifically Set Forth in TARA Apply to Title Office's Request for County Treasurer Records.**

At issue in this case is the meaning of the word “transcript” as used in subsection (1) of TARA. MCL 48.101(1). The fundamental rule of statutory construction is to give effect to the Legislature’s intent. *Weakland v Toledo Engineering Co, Inc*, 467 Mich 344, 347; 656 NW2d 175 (2003) (citing *Farrington v Total Petroleum, Inc*, 442 Mich 201, 212; 501 NW2d 76 (1993)). “The first criterion in determining intent is the specific language of the statute.” *Robertson v DaimlerChrysler Corp*, 465 Mich 732, 748; 641 NW2d 567 (2002) (citing *DiBenedetto v West Shore Hospital*, 461 Mich 394; 605 NW2d 300 (2000)).

If the statutory language is clear and unambiguous, then this Court will conclude that the Legislature intended the meaning it clearly and unambiguously expressed, and the statute is enforced as written. *Nowell v Titan Insurance Co*, 466 Mich 478, 482, n.4; 648 NW2d 157 (2002) (quoting *Huggett v Dep’t of Natural Resources*, 464 Mich 711, 717; 629 NW2d 915 (2001)). “No further judicial construction is necessary or permitted.” *Id.*

The word “transcript” is not defined in TARA. Unless defined in the statute, every word or phrase will be ascribed its plain and ordinary meaning. *Robertson*, 465 Mich at 748 (citing MCL 8.3a; *Western Mich Univ Bd of Control v Michigan*, 455 Mich 531, 539; 565 NW2d 828 (1997)). “As might be expected, in undertaking to give meaning to words this Court has often consulted dictionaries.” *Chandler v County of Muskegon*, 467 Mich 315, 320; 652 NW2d 224 (2002) (citing *Horace v City of Pontiac*, 456 Mich 744, 756; 575 NW2d 762 (1998)); *see also Robertson*, 465 Mich at 748-51.

The *Random House Webster’s College Dictionary* (1997) defines “transcript” as:

1. a written, typewritten, or printed *copy*; something transcribed or made by transcribing.
2. *an exact copy or reproduction*, esp. one

having an official status. 3. an official school report on the record of a student, listing courses, grades received, etc.

Random House Webster's College Dictionary at 1366 (1997) [emphasis added]; Exhs at 48A.

“Write,” in turn, is defined as:

1. to trace or form (characters, letters, words, etc.), esp. on paper, with a pen, pencil, **or other instrument or means** 9. to transfer (data, text, etc.) from **computer memory to an output medium**.

Id. at 1485 [emphasis added]; Exhs at 49A. “Output” is defined, in part, as “any information made available by computer, as on a printout, **display screen, or disk**.” *Id.* at 928 [emphasis added]; Exhs at 50A. Similarly, the definition of what is a “written” record in FOIA itself includes:

handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

MCL 15.232(h).

While paper often is used to make a transcript, the plain and ordinary meaning of “transcript” is *not* limited to that which is transcribed *on paper*. Put more simply, a “transcript” is “a copy of *any kind*.” *Black's Law Dictionary* at 1497 (6th ed. 1990) [emphasis added]; Exhs at 52A. The word “transcript,” therefore, does apply to a copy of property tax records provided to Title Office on computer disk.

2. As Originally Enacted, the Applicability of TARA Was Not Limited to Transcripts Provided With Then-Existing Technology.

The *Oakland County Treasurer* Court found that TARA did not apply to electronic copies because the 1895 Legislature did not contemplate such copies. 245 Mich App at 203;

Exhs at 93A. According to the plain language of TARA as it was enacted, however, that conclusion restricts TARA in a manner not intended by the Legislature in 1895.

As this Court recently stated:

When a legislature has unambiguously conveyed its intent in a statute, the statute speaks for itself and there is no need for judicial construction; the proper role of the court is simply to apply the terms of the statute to the circumstances in a particular case.

In re Certified Question, ___ Mich ___; 659 NW2d 597, 600 (2003) [citations omitted]; Exhs at 83A-88A. As it *originally was enacted* in 1895, TARA stated that:

the county treasurers of the several counties shall make or cause to be made on application therefor, *transcripts of any papers or records on file in their offices*, upon payment by applicants therefor of the following fees

1895 PA 161, Eff Aug. 30, 1895. [emphasis added]; Exhs at 58A. At the time of its enactment, accordingly, the plain language of TARA unambiguously evinced the textual intent to fix fees for providing transcripts of papers or records. In no manner did that text limit the applicability of TARA's fees to transcripts provided with then-existing technology.

The dictionary definition of the word “transcript” that long predates the enactment of TARA again illustrates that point. *Chandler*, 467 Mich at 320. In the *American Dictionary of the English Language* published by Noah Webster in 1828, a reprinted copy of which is held in the collection of the Library of Michigan, “transcript” is defined as:

A copy; a writing made from and according to an original; a writing or composition consisting of the same words with the original . . . *A copy of any kind*.

Noah Webster, *American Dictionary of the English Language* (1828), reprinted in *American Dictionary of the English Language* (1970) [emphasis added]; Exhs at 56A. When TARA was enacted, therefore, the word “transcript” had been defined for more than 50 years as “a copy”

and “a copy of any kind.” Notably standing the test of time for the following 108 years, as noted above, that definition continues to be used today.

At the time of its enactment, the plain language of TARA evinced the textual intent to fix the specific fees for providing transcripts of county treasurer records, whether or not those transcripts were provided with then-existing or subsequently developed means of record reproduction. The Legislature is “presumed to have intended the meaning it has plainly expressed” *Robertson*, 465 Mich at 576. Moreover, this Court must “ascertain the legislative intent . . . from the words expressed in the statute.” *State Farm Fire and Casualty v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002) (citing *Wickens v Oakwood Healthcare System*, 465 Mich 53, 60; 631 NW2d 686 (2001)). Finally, “[a] court should refrain from speculating about the Legislature’s intent beyond the words employed in the statute.” *In re MCI Telecommunications Complaint*, 460 Mich 396, 414-15; 596 NW2d 164 (1999) (citing *City of Lansing v Lansing Twp*, 356 Mich 641, 648-49; 97 NW2d 804 (1959)). This Court must find, therefore, that the interpretation of TARA used by the courts below and the *Oakland County Treasurer* Court was erroneous.

3. The Interpretation of TARA Urged by Title Office and Adopted by the Trial Court and the *Oakland County Treasurer* Court Improperly Inserts Words Into TARA.

To illustrate the error of the interpretation of TARA urged by Title Office and accepted by the courts below, one must insert new words into TARA to adopt that interpretation. The *Oakland County Treasurer* Court concluded, for example, that TARA was intended to compensate counties for providing “*certified* transcripts or abstracts.” 245 Mich App at 203 [emphasis added]; Exhs at 93A. Title Office has contended, moreover, that TARA applies only to “paper” transcripts and that a computer disk is not covered by TARA because it is not the same thing as “a paper transcript.” See *Title Office, Inc v Van Buren County Treasurer*, Case

Nos. 225376 and 225377 (Mich App January 18, 2002) at 8; Exhs at 43A; Appellees' Brief in Opposition to Appellants' Applications for Leave to Appeal (dated March 22, 2002) at 22.

Thus, according to those interpretations, TARA would be written to state that "[a] county treasurer shall make upon request a **paper** transcript of any paper or record" or "[a] county treasurer shall make upon request a **certified** transcript of any paper or record" As enacted by the Legislature, however, TARA plainly states that:

A county treasurer shall make upon request a transcript of any paper or record . . . for the following fees

MCL 48.101. Moreover, as originally enacted in 1895, the statute provided that county treasurers:

shall make . . . on application therefor, transcripts of any papers or records . . . upon payment . . . of the following fees

1895 PA 161, Eff Aug 30, 1895; Exhs at 58A.

"It is a well-established rule of statutory construction that this Court will not read words into a statute." *Byker v Mannes*, 465 Mich 636-37, 646; 641 NW2d 210 (2002) (Court refused to adopt an interpretation under which the word "intent" would have been inserted into the Uniform Partnership Act of 1994) (citing *Omelenchuk v City of Warren*, 461 Mich 567, 575; 609 NW2d 177 (2000)). Further, "nothing may be read into a statute that is not within the manifest intent of the Legislature as derived from the act itself." *Omne Financial, Inc v Shacks, Inc*, 460 Mich 305, 311; 596 NW2d 591 (1999). It is the Court's "constitutional obligation . . . to interpret—not to rewrite—the law." *State Farm Fire and Casualty Co.*, 466 Mich at 149. The attempt by the *Oakland County Treasurer* Court and Title Office to insert new words into TARA must be rejected.

C. Legislative History and the Apparent Purpose of TARA Support the Applicability of the Fees Set Forth in TARA to Records Provided on a Computer Disk.

Since it was enacted in 1895, TARA periodically has been amended seven times. *See* 1897 PA 21, Eff Aug 30, 1897; 1899 PA 211, Eff Sep 23, 1899; 1903 PA 173, Eff Sep 17, 1903; 1949 PA 101, Eff May 17, 1949; 1957 PA 49, Eff Sep 27, 1957; 1974 PA 141, Eff June 5, 1974; 1984 PA 291, Eff. Dec 20, 1984; *see* Exhs at 57A-75A. These amendments have included minor revisions to TARA's text, increases in its fees as recently as 1979, and the addition of subsection 5 in 1984 that addressed fee options only for a county with more than 2 million residents. *Id.*

As noted by the Court of Appeals below, the *Oakland County Treasurer* Court's interpretation of TARA would render the statute inapplicable to transcripts produced using a photocopier or other technology developed much after 1895. *See Title Office, Inc v Van Buren County Treasurer*, Case Nos. 225376 and 225377 (Mich App January 18, 2002) at 8; Exhs at 43A. Under the *Oakland County Treasurer* Court's interpretation, indeed, only the use of a fountain pen or other technology in use in 1895 would trigger TARA's fees. Nevertheless, even in light of the development and use of record reproduction technology developed after TARA originally was enacted, the Legislature periodically has updated TARA. It makes little sense that the Legislature would endeavor to keep current a statute that applies only to means of record reproduction that were used 108 years ago. While the plain language of TARA is clear, as discussed above, its legislative history nevertheless supports the application of its fees to record reproduction technology developed after 1895. *See In re Certified Question*, 659 NW2d at 600, n.5.

Additionally, FOIA's legislative history also supports the application of TARA's fees to Title Office's request for a copy of county treasurer records in this case. As originally introduced in the Legislature, FOIA did not contain the exception currently stated in FOIA

Section 4(4). *See* HB 6085, introduced March 8, 1976; Exhs at 76A-78A. Rep. Perry Bullard, a co-sponsor of the bill and the chair of a committee considering the bill, held discussions with the Michigan Association of Counties and other local government representatives. Rep. Perry Bullard, *Memorandum to Members of the House Civil Rights Committee* (June 22, 1976); Exhs at 79A-82A. The purpose of those discussions was to “get direct input . . . on the original draft of the bill” and to “deal with as many problem areas as possible.” *Id.*; Exhs at 79A.

In direct response to those discussions, Rep. Bullard proposed the amendment to House Bill 6085 that became Section 4(4) of FOIA as it was enacted by the Legislature and exists today. *Id.*; MCL 15.234(4). That history strongly indicates that the exception stated in Section 4(4) of FOIA was intended in part to exempt from FOIA the fees set forth in TARA, which are credited to each county’s general fund once they are collected by the county treasurer. MCL 45.404.

Finally, TARA’s express purpose supports the application of its fees to Title Office’s request for records on computer disk. To the extent construction of a statute is necessary, the Court nevertheless “is required to determine and give effect to the Legislature’s intent and employ the ordinary and generally accepted meaning of the words used by the Legislature.” *Lorencz v Ford Motor Company*, 439 Mich 370, 376; 483 NW2d 844 (1992). The statute is to be given a reasonable construction considering its purpose “without harming the plain wording of the act.” *Id.*

As originally enacted, TARA’s preamble simply stated that it was:

AN ACT to require county treasurers to furnish transcripts and abstracts of records, and *fixing the fees* to be paid therefor.

1895 PA 161, Eff Aug. 30, 1895 emphasis added; Exhs at 58A. The Legislature, accordingly, intended not just to reimburse a county treasurer for providing transcripts but to fix specific fees for that service.

The substance of TARA further demonstrates its purpose because it specifically sets forth the amount of fees to be charged by county treasurers in providing transcripts of papers and records. MCL 48.101. In contrast, for example, FOIA's fee provision explicitly is based on the incremental cost of providing a public record. MCL 15.234(1). Similarly, the fee provision contained in the Michigan Election Law is based on "the cost of making, certifying, and delivering the tape, disk, or listing" containing certain records. MCL 168.522(1). The Legislature could have but did not base TARA's fees on county treasurers' costs to provide transcripts of records. Indeed, in addition to setting specific fees, the Legislature also has ensured that "[i]n no case shall any abstract, list, copy, or statement made as required by [TARA] be furnished for a sum less than 50 cents." MCL 48.101(3).

Finally, TARA states that "[a]ll moneys collected under [TARA] shall be retained by the county treasurer . . . except in counties in which the county treasurer receives a salary in lieu of all fees, in which counties such moneys shall be placed . . . to the credit of the general fund of the county." MCL 48.101(4). Given that the fees set forth in TARA essentially were considered part of a county treasurer's salary where no salary was provided by the county, this subsection demonstrates that the Legislature considered those fees to be compensation for a service rather than merely covering the costs to provide a transcript of a record.

Subsection 5 of TARA states that fees set by a county ordinance must be cost based. MCL 48.101(5). Nevertheless, that section only applies to a county with a population greater than 2 million. *Id.* More importantly, it applies only where the county departs from the fee

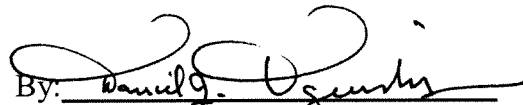
structure established by the Legislature. The Legislature could have applied the same rule to fees charged by county treasurers under subsections (1) through (3) of TARA, but it did not. While its language is clear, therefore, the apparent purpose behind TARA nevertheless supports the applicability of its fees to requests for county treasurer records provided on computer disk.

CONCLUSION

In granting Title Office's motion for summary disposition in this case, the trial court contravened the clear language of TARA. The decision of the *Oakland County Treasurer Court*, which the Court of Appeals was bound to follow in this case, also is based on an interpretation that contravenes the clear language of TARA. Based on the plain language of TARA, the specific fees set forth in TARA apply to transcripts of county treasurer records, including Office Title's request for records on computer disk. For the reasons stated above, accordingly, the Michigan Association of County Treasurers, as *amicus curiae*, respectfully requests that this Court reverse the decision of the Court of Appeals in this case.

Respectfully submitted,

DYKEMA GOSSETT PLLC

By: 

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Daniel J. Oginsky (P60526)

Julie A. Karkosak (P61917)

Attorneys for *Amicus Curiae*

Michigan Association of County Treasurers

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Lansing, MI 48933-1742

(517) 374-9100

Dated: May 28, 2003

Exhibits

TABLE OF CONTENTS

1.	Plaintiff-Appellee FOIA Requests, dated August 14, 1998.....	1A
2.	Defendants-Appellants Correspondence to Plaintiff-Appellee.....	17A
3.	Trial Court Opinion Granting Plaintiff-Appellee's Motion for Summary Disposition, dated December 29, 1999.....	30A
4.	Order of the Trial Court Granting Plaintiff-Appellee's Motion for Summary Disposition, dated January 31, 2000	33A
5.	Order of the Court of Appeals Denying Plaintiff-Appellee's Motion to Affirm, dated September 7, 2001.....	35A
6.	Opinion of the Court of Appeals Affirming the Trial Court Decision, dated January 18, 2002	36A
7.	Order of the Court of Appeals Pursuant to MCR 7.215(I), dated February 8, 2002	45A
8.	Dictionary References.....	46A
9.	Legislative History of 1895 PA 161	57A
10.	Excerpts of Legislative History of 1976 PA 442	76A
11.	<i>In re Certified Question</i> , ___ Mich ___; 659 NW2d 597 (2003)	83A
12.	<i>Oakland County Treasurer v Title Office, Inc</i> , 245 Mich App 196; 627 NW2d 317 (2001)	90A

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Allegan County

Mr. Fulton Sheen or FOIA Officer
Allegan County Treasurer
113 Chestnut St.
Allegan, MI 49010

Re: Freedom of Information Act Request

Dear Mr. Sheen or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Allegan County.

Unfortunately, The Title Office does not know how Allegan County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Allegan County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Allegan County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Allegan County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in black ink, which appears to read 'Richard Vander Broek'. The signature is written in a cursive style with a large initial 'R'.

Richard Vander Broek

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Branch County

Ms. Sandra Thatcher or FOIA Officer
Branch County Treasurer
Division Street
Coldwater MI 49036

Re: Freedom of Information Act Request

Dear Ms. Thatcher or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Branch County.

Unfortunately, The Title Office does not know how Branch County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Branch County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Branch County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Branch County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

PLAINTIFF-APPELLANT FOIA REQUESTS

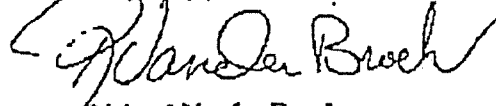


of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,


Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Hillsdale County

Mr. Gary Leininger or FOIA Officer
Hillsdale County Treasurer
Hillsdale County Courthouse
Hillsdale, MI 49242

Re: Freedom of Information Act Request

Dear Mr. Leininger or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Hillsdale County.

Unfortunately, The Title Office does not know how Hillsdale County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Hillsdale County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Hillsdale County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Hillsdale County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

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Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in cursive script that reads 'Richard Vander Broek'. The signature is written in dark ink and is positioned above the printed name.

Richard Vander Broek

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Ionia County

Ms. Nancy Hicki or FOIA Officer
Ionia County Treasurer
100 Main Street
Ionia MI 48846

Re: Freedom of Information Act Request

Dear Ms. Hicki or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Ionia County.

Unfortunately, The Title Office does not know how Ionia County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Ionia County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Ionia County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Ionia County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

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Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Richard Vander Broek'.

Richard Vander Broek

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Jackson County

Ms. Janet Rochefort or FOIA Officer
Jackson County Treasurer
120 W Michigan Avenue
Jackson MI 49201

Re: Freedom of Information Act Request

Dear Ms. Rochefort or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Jackson County.

Unfortunately, The Title Office does not know how Jackson County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Jackson County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Jackson County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Jackson County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Richard Vander Broek'.

Richard Vander Broek

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Kalamazoo County

Mr. Herman Drenth or FOIA Officer
Kalamazoo County Treasurer
201 W Kalamazoo Avenue
Kalamazoo MI 49007

Re: Freedom of Information Act Request

Dear Mr. Drenth or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Kalamazoo County.

Unfortunately, The Title Office does not know how Kalamazoo County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Kalamazoo County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Kalamazoo County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Kalamazoo County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Richard Vander Broek'. Below the signature is the printed name 'Richard Vander Broek'.

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Livingston County

Ms. Diane Hardy or FOIA Officer
Livingston County Treasurer
200 East Grand River
Howell, MI 48843

Re: Freedom of Information Act Request

Dear Ms. Hardy or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Livingston County.

Unfortunately, The Title Office does not know how Livingston County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Livingston County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Livingston County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Livingston County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in cursive script that reads 'Richard Vander Broek'. The signature is written in dark ink and is positioned above the printed name.

Richard Vander Broek

PLAINTIFF-APPELLANT FOIA REQUESTS



August 14, 1998

Freedom of Information Act Officer
Van Buren County

Ms. Karen Makay or FOIA Officer
Van Buren County Treasurer
212 Paw Paw St.
Paw Paw MI 49079

Re: Freedom of Information Act Request

Dear Ms. Makay or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Van Buren County.

Unfortunately, The Title Office does not know how Van Buren County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Van Buren County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Van Buren County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Van Buren County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

PLAINTIFF-APPELLANT FOIA REQUESTS



of \$.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

A handwritten signature in cursive script, reading 'Richard Vander Broek'. Below the signature is the printed name 'Richard Vander Broek'.

Richard Vander Broek

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

Allegan County Building
P.O. Box 259
Allegan, Michigan 49010-0259
(616) 673-0260
Fax (616) 673-6094

County of Allegan

FULTON J. SHEEN
County Treasurer

SALLY BROOKS
Chief Deputy Treasurer
ALICE RIDLINGTON
Deputy Treasurer

August 19, 1998

Richard VanderBroek
Freedom of Information Act Officer
Title Office
P.O. 2279
Holland, MI 49010

Re: FOIA request for the 1995, 1996, and 1997 Tax Roll

Dear Mr. VanderBroek:

This is in response to your August 14, 1998 Freedoms of Information Act (FOIA) request for a complete computer copy of the 1995, 1996, and 1997 delinquent tax roll.

Nothing has changed since the last FOIA request you made. The Ottawa County Circuit Court decision to which you referred applies to Ingham County only and thus is not binding on Allegan County. Furthermore a request has been filed for a rehearing of that case in September. Thus until the Legislature changes the statute amount of 25¢ in M.C.L. §48.101, we are bound by law to charge 25¢.

This fee schedule remains applicable when the records are requested pursuant to FOIA M.C.L. § 15.234(4). Understand that these numbers change daily and that they will be obsolete the day you receive them. The three rolls you requested constitute approximately 15,104 delinquent abstracts as of 8/19/98, which would result in a statutory fee of approximately \$3,776.00 for the delinquent information. Current parcel counts as of October 1997, 54,225 for a total of 69,329 parcels. Total cost ~~\$17,332.25~~. Because of the unusually high fee for this production, our office requests that you provide a good faith deposit of one-half of the total-estimated fee, if you wish us to provide this information.

Additionally, you should be aware that data files stored by Allegan County's computers are not in the exact format which you requested. The information needed to compile your requested rolls are contained in separate data files, which are combined by the Allegan County's computer program to provide the printed output. Because we have never tried to copy this information for another data base, we are uncertain if it is readable by other computer programs.¹

¹The computer program used by Allegan County is unique to Allegan County government, and computer software is not subject to FOIA, pursuant to MCL § 15.232(f)

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

Upon receipt of your good faith deposit we will begin processing your request.

If you have any questions regarding this, do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fulton J. Sheen".

Fulton J. Sheen
Allegan County Treasurer

FJS/sm

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

16) 527-5329
16) 527-5323 FAX

County of Ionia

COURTHOUSE
100 MAIN ST. — IONIA, MI 48846
NANCY HICKEY
TREASURER



8-18-98

Mr. Richard VanderBroek
Title Office — Corporate Services
P.O. Box 2279
Holland, MI 49422

Dear Mr. VanderBroek:

RE: Freedom of Information Act Request
For Tax Information (letter dated 8-14-98)

I received your letter requesting property tax records for Ionia County for 1995, 1996, and 1997.

I am unsure as to what exactly you are requesting. It would appear that you do not want any delinquent tax information. This office just went on computers on 1-1-98 and delinquent taxes are available by diskette.

This office houses the individual tax rolls that are turned over by the local treasurers. The only year that is available on the computer is the 1997 tax collection year.

Please advise me exactly what information you want to enable me to process your request.

Sincerely,

Nancy Hickey
Treasurer

CC: Ray Vogt — FOI Officer
File

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

316) 527-5329
316) 527-5323 FAX

County of Ionia

COURTHOUSE
100 MAIN ST. — IONIA, MI 48846

NANCY HICKEY
TREASURER



8-24-98

Mr. Richard VanderBroek
Title Office — Corporate Services
P.O. Box 2279
Holland, MI 48422

Dear Mr. VanderBroek:

RE: Freedom of Information Request

As per our telephone conversation of 8-20-98, I am submitting the cost for exporting of data as discussed by us last week.

The costs are as follows:

Export of 1997 Tax Rolls @ \$.25 per page plus Labor	\$ 1,807.72
Export of Delinquent Tax Roll @ \$.25 per page Plus Labor	<u>\$ 694.48</u>
TOTAL	\$ 2,502.20

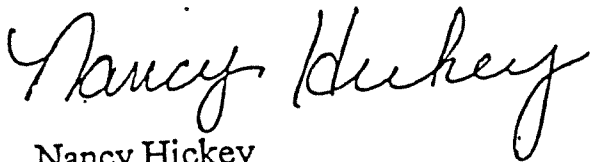
Please make check payable to:

IONIA COUNTY TREASURER
100 MAIN ST. COURTHOUSE
IONIA, MI 48846

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

Upon receipt of your check, I will export data and mail it to you on 3 ½" diskette.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Hickey". The signature is fluid and written in dark ink.

Nancy Hickey
Treasurer

CC: Ray Vogt – FOI Officer
File

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

LAW OFFICES
ROSENFELD, GROVER & FRANG, P.C.
601 SOUTH JACKSON STREET
P.O. BOX 1405
JACKSON, MICHIGAN 49204-1405
TELEPHONE (517) 788-6270
FAX (517) 788-9893

ROBERT M. GROVER
JAMES E. FRANG

RICHARD Z. ROSENFELD
OF COUNSEL

August 26, 1998

Mr. Richard Vander Broek
Title Office, Corporate Services
P. O. Box 2279
Holland, Michigan 49422

Re: Freedom of Information Act Request

Dear Mr. Vander Broek:

We have been asked to respond to your Freedom of Information Act Request dated August 14, 1998 and received by Jackson County on August 20, 1998.

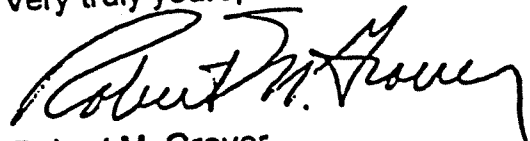
You have requested an electronic copy of the tapes or files that contain the 1995, 1996 and 1997 property tax records of Jackson County.

Jackson County is willing to provide such records upon payment of the statutory fee of \$.25 per abstract as required by MCL Section 48.101. Section 4(4) of the FOIA provides that Section 4, which permits a public body to charge actual mailing costs and actual incremental costs for providing copies of public records, does not apply if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

The decision of the Ottawa County Circuit Court mentioned in your request is not binding on Jackson County, is clearly in error and will be reversed on appeal.

In sum, your FOIA request is granted. The records requested will be provided upon payment of the statutory fee.

Very truly yours,



Robert M. Grover

RMG/mas

cc: Janet Rochefort,
Jackson County Treasurer
Joni Johnson,
Deputy Director Human Resources



BOARD OF COMMISSIONERS

201 WEST KALAMAZOO AVENUE • KALAMAZOO, MICHIGAN 49007-3777
PHONE (616) 384-8111 FAX (616) 383-8882

CHARLOTTE B. SUMNEY
CHAIRPERSON

EVA OZIER
VICE CHAIRPERSON

September 15, 1998

The Title Office, Inc.
ATTN: Mr. Richard VanderBroeck
P.O. Box 2279
Holland, MI. 49422

Re: Property Tax Records

Dear Mr. VanderBroeck:

This letter is intended to confirm our discussion and agreements regarding the Freedom of Information Act (FOIA) request you recently sent to Herman Drenth, the Kalamazoo County Treasurer. In your FOIA request you asked for a copy of the Treasurer's Office's property tax records and provided a description of the form in which you wanted those records (e.g. a computerized form).

There is no dispute that you are legally entitled to receive the information which you requested and the Kalamazoo County Treasurer will provide that information. However, a disagreement may exist as to whether the Kalamazoo County Treasurer is required to charge for the requested records under the Freedom of Information Act (e.g. the actual cost method) or the Title and Abstract Act (e.g. a minimum of \$0.25 per property). There are arguments to support charging under either statute and litigation has been initiated in Ottawa and Oakland Counties over the issue of fees.

It is my hope that your office and the Kalamazoo County Treasurer's Office can reach a reasonable and appropriate resolution of the fee issue without resorting to litigation. To that end, I asked, and you agreed, to extend the Treasurer's time for responding to your FOIA request until we have had an opportunity to discuss the fee issue in more depth. I also promised to discuss your FOIA request with the County's Information Systems Director to see if the computer tape of the Delinquent Tax Roll that the County provides to the local newspaper in connection with the Annual Tax sale would satisfy/comply with

MOND WILSON
District 1

LORENCE WENKE
District 2

CHARLOTTE SUMNEY
District 3

LAWRENCE PROVANCHER
District 4

TODD JOHNSON
District 5

GRETCHEN CANTOR
District 6

EVA L. OZIER
District 7

23A

MARY B. POWERS
District 8

DAVID BUSKIRK
District 9

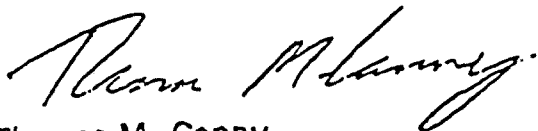
The Title Office, Inc.
Page two
September 15, 1998

your FOIA request. Finally, we agreed that neither the County nor your office will initiate legal action until we both agree that we have reached an impasse on the fee issue.

I will discuss this matter with Mr. Drenth as soon as possible. Mr. Drenth is presently attending a conference but I anticipate that he will return to his office by Thursday September 17, 1998. Thank you for your time and patience in this matter. If your recollection of our discussion and agreements differs from that outlined in this letter please contact me at your convenience.

Very truly yours,

KALAMAZOO COUNTY BOARD OF COMMISSIONERS



Thomas M. Canny
Assistant Corporation Counsel



BOARD OF COMMISSIONERS

201 WEST KALAMAZOO AVENUE • KALAMAZOO, MICHIGAN 49007-3777
PHONE (616) 384-8111
FAX (616) 383-8862

CHARLOTTE B. SUMNEY
CHAIRPERSON

EVA OZIER
VICE CHAIRPERSON

October 13, 1998

The Title Office, Inc.
ATTN: Mr. Richard VanderBroeck
P.O. Box 2279
Holland, MI. 49422

Re: Property Tax Records

Dear Mr. VanderBroeck:

I apologize for not writing to you earlier and I wish to thank you for your patience. I have thoroughly discussed your *Freedom of Information Act (FOIA)* request with the Kalamazoo County Treasurer, Mr. Herman Drenth, and with the Kalamazoo County Corporation Counsel, Mr. Duane Trelmstra. Mr. Drenth agrees that the information you requested constitutes a public record as defined in Section 2(c) of the *FOIA* [e.g. MCL 15.232(c)] and Mr. Drenth agrees to provide you with copies of those records in a mutually agreeable format.

Mr. Drenth disagrees with your position that Section 4(1) of the *FOIA* [e.g. MCL 15.234(1)] sets the fee for the copies of the public records. As you are aware, Section 4(1) establishes a general *FOIA* fee equal to the public body's actual costs of producing the copies of the public records. Instead, Mr. Drenth asserts that Section 4(4) of the *FOIA* [e.g. MCL 15.234(4)] establishes the charges for the public records. Section 4(4) provides, in relevant part, that the "actual cost" provisions of Section 4(1) do not apply when a statute specifically authorizes the sale of the public records or when a statute specifically sets a fee for providing copies of the public records. Mr. Drenth asserts that the *Transcripts and Abstracts of Records Act* [e.g. MCL 48.101] is a statute which specifically authorizes the sale of the requested public records and/or which specifically sets a fee for copies of the public record. The fee established under the *Transcripts and Abstracts of Records Act* is \$0.25 for each description of land contained in the public record(s).

JOE WILSON
District 1

LOREN OE WENKE
District 2

CHARLOTTE SUMNEY
District 3

LAWRENCE PROVANCHER
District 4

JOE JOHNSON
District 5

GRETCHEN CANTOR
District 6

EVA L. OZIER
District 7

25A

MARY B. POWERS
District 8

DAVID BUSKIRK
District 9

The Title Office, Inc.
Page two
October 13, 1998

Mr. Drenth is also aware that the Title Company, Inc., has prevailed in an action in the Ottawa Circuit Court which ruled that the fee provisions of the FOIA control over the provisions of the *Transcripts and Abstracts of Records Act* whenever a person requests the complete property records in a computer medium. Mr. Drenth is also aware that the Oakland County Treasurer has initiated a Declaratory Judgment action against the Title Company, Inc., in the Oakland County Circuit Court for the purpose of having the *Transcripts and Abstracts of Records Act* declared to be the controlling statute. Mr. Drenth also acknowledges, that neither the Ottawa County action nor the Oakland County action involve the Kalamazoo County Treasurer's Office and, therefore, neither action automatically constitutes binding precedent in Kalamazoo County.

Based upon our previous discussion, it is my understanding that you would not be interested in receiving the requested public record if you have to pay \$0.25 per property. Mr. Drenth suggests that, if you do not immediately require copies of the requested record, you and the Treasurer's Office agree to place your request "on hold" until the Michigan Court of Appeals issues a final decision on which statutory fee applies to your FOIA request (Mr. Drenth anticipates that Ingham County will appeal the Ottawa County Circuit Court decision and that the non-prevailing party in the Oakland County Circuit Court action will appeal that decision). Alternatively, Mr. Drenth would be willing to initiate a Declaratory Judgment action in the Kalamazoo County Circuit Court or to petition the Oakland County Circuit Court for permission to intervene in that pending action. However, I do not know if the Oakland County Treasurer or the Oakland County Circuit Court would agree to permit the intervention. I am interested in hearing your thoughts on this issue and would be interested in hearing any other solution which you think would be appropriate.

I appreciate your time and attention to this matter and look forward to hearing your response to the suggestions contained in this letter. If you have any questions, comments or concerns regarding this letter please feel free to contact me at your convenience.

~~Very truly yours,~~

KALAMAZOO COUNTY BOARD OF COMMISSIONERS



Thomas M. Canny
Assistant Corporation Counsel

-17-1998

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE



DIANNE H. HARDY
LIVINGSTON COUNTY TREASURER

LIVINGSTON COUNTY COURTHOUSE
HOWELL, MICHIGAN 48843-2398

(517) 546-7010

September 14, 1998

VIA FACSIMILE

Mr. Richard Vander Broek
The Title Office, Inc.
P. O. Box 2279
Holland, MI 49422-2279

Re: Freedom of Information Act Request

Dear Mr. Vander Broek:

This letter is in response to your Freedom of Information Act ("FOIA") request received in this office on August 19, 1998. You have requested "an electronic copy of the tapes or files that contain the 1995, 1996 and 1997 property tax records of Livingston County." Your request for "an electronic copy of the tapes or files that contain the 1995, 1996 and 1997 property tax records of Livingston County" is hereby granted to the extent such documents exist and are available.

MCL 48.101 mandates a county treasurer charge a fee of \$.25 per abstract for providing the requested information. This fee schedule is mandatory and controls over the general fee provisions under the Freedom of Information Act. [MCL 15.234(4)]. I do not believe that I have any choice but to follow this fee schedule.

Your request constitutes approximately 255,000 abstracts, which would result in a statutory fee of approximately \$63,750. Because of the unusually high fee for this production, our office requests that you provide a good faith deposit of one-half of the total estimated fee if you wish for us to provide this information.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Dianne H. Hardy
Dianne H. Hardy
Livingston County Treasurer

Van Buren County
Office of County Treasurer
Courthouse, 212 East Paw Paw Street
Paw Paw Michigan 49079-1499

Karen Ma. Treasurer
Karen MacDonald, Chief Deputy

Phone (616) 657-8228
Fax (616) 657-2547

August 20, 1998

Richard VanderBroek
Freedom of Information Act Officer
Title Office
PO Box 2279
Holland MI 49010

Re: FOIA request for the 1995, 1996 and 1997 Tax Roll

Dear Mr. VanderBroek:

This is in response to your August 14, 1998 Freedom of Information Act (FOIA) request for a complete computer copy of the 1995, 1996 & 1997 tax rolls.

Nothing has changed since the last FOIA request you made. The Ottawa County Circuit Court decision to which you referred applies to Ingham County only and thus is not binding on Van Buren County. Furthermore a request has been filed for a rehearing of that case in September. Thus until the Legislature changes the statute amount of \$.25 in MCL 48.101, we are bound by law to charge \$.25.

This fee schedule remains applicable when the records are requested pursuant to FOIA MCL 15.234(4). Understand that these numbers change daily and that they will be obsolete the day you receive them. Each of the three rolls you requested contain approximately 45,000 records, which would result in a statutory fee of approximately \$33,750.00. Because of the unusually high fee for this production, our office requested that you provide a good faith deposit of one-half of the total estimated fee, if you wish us to provide this information.

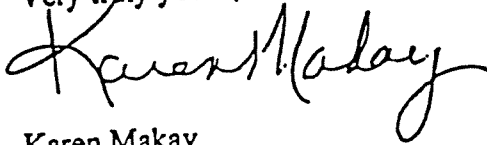
Additionally, you should be aware that the data files stored by Van Buren County's computers are not in the exact format, which you requested. The information needed to compile your requested rolls are contained in separate data files, which are combined by the Van Buren County computer program to provide the printed output. Because we have never tried to copy this information for another data base, we are uncertain if it is readable by other computer programs.¹

¹ The computer program used by Van Buren County is unique to Van Buren County government and computer software is not subject to FOIA, pursuant to MCL 15.232(f).

DEFENDANTS-APPELLANTS CORRESPONDENCE TO PLAINTIFF-APPELLEE

Upon receipt of your good faith deposit we will begin processing your request. If you have any questions regarding this, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Karen Makay".

Karen Makay
Van Buren County Treasurer

KM/kdm

LOWER COURT DECISION AND ORDER

STATE OF MICHIGAN

IN THE 44TH CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

THE TITLE OFFICE, INC.,
a Michigan Corporation,

Plaintiff,

Case No 99-17173-CZ
Honorable Stanley J. Latreille

v .

FULTON J. SHEEN, Allegan County Treasurer,
SANDRA THATCHER, Branch County Treasurer,
GARY LEININGER, Hillsdale County Treasurer,
NANCY HICKEY, Ionia County Treasurer,
JANET ROCHEFORT, Jackson County Treasurer,
HERMAN DRENTH, Kalamazoo County Treasurer,
DIANNE H. HARDY, Livingston County Treasurer,
KAREN MAKAY, Van Buren County Treasurer,

Defendants.

TRUE COPY
STANLEY J. LATREILLE
44th Circuit Court

OPINION OF THE COURT

This matter is before the Court on plaintiff's motion for summary disposition under MCR 2.116(C)(10). Plaintiff requested a computer tape containing each county's property tax records for 1995 through 1997 under the Michigan Freedom of Information Act ("FOIA"). The sole issue in this case is which statute governs the fee defendants should charge plaintiff for such a request -- the FOIA, MCL 15.234; MSA 4.1801(4), or the Transcripts and Abstracts of Records Act, MCL 48.101; MSA 5.711.

The FOIA, MCL 15.234(1); MSA 4.1801(4)(1), provides that a public body may charge a fee for providing records, limited to actual mailing costs and the actual incremental cost of duplication. The FOIA, MCL 15.234(4); MSA 4.1801(4)(4), however, also contains an

LOWER COURT DECISION AND ORDER

exception:

This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

The Transcripts and Abstracts of Records Act, MCL 48.101(1); MSA 5.711(1), provides:

(1) A county treasurer shall make upon request a transcript of any paper or record on file in the treasurer's office for the following fees:

(a) For an abstract of taxes on any description of land, 25 cents for each year covered by the abstract.

(b) For an abstract with statement of name and residence of taxpayers, 25 cents per year for each description of land covered by the abstract.

(c) For list of state tax lands or state bids, 25 cents for each description of land on the list.

(d) For 1 copy of any paper or document at the rate of 25 cents per 100 words.

(e) For each certificate, 25 cents.

Hence, the Court must determine whether the Transcripts and Abstracts of Records Act specifically authorizes the sale of public records or specifically designates the amount of the fee for providing a copy of the public record.

The Court finds that the Transcripts and Abstracts of Records Act does not specifically authorize the sale of public records. In *Grebner v Clinton Charter Twp*, 216 Mich App 736 (1996), the issue before the court was whether the Michigan Election Law specifically authorized the sale of voter registration rolls so as to fall within the exception to the FOIA. *Id.* at 742. Even though the court acknowledged that the Michigan Election Law provides for the payment of costs of preparing copies of voter registration records, the court held that the Michigan Election Law did not explicitly authorize the sale of voter registration rolls. *Id.* at 743.

LOWER COURT DECISION AND ORDER

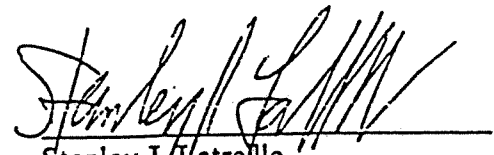
The case at bar is no different. Admittedly, the Transcripts and Abstracts of Records Act allows a fee for copying records; however, it does not specifically authorize the sale of such documents.

Further, the Court finds that the Transcripts and Abstracts of Records Act does not specifically designate the amount of the fee for providing a copy of the public record. Although the Transcripts and Abstracts of Records Act designates the amount of the fee for abstracting or transcribing a portion of the record, plaintiff did not request a transcription or an abstract. Plaintiff requested a computer tape containing each county's property tax records. Nothing in the statute contemplates making a computerized copy of the records. Thus, the statute does not specifically designate the amount of the fee for providing a copy of the record in the computer format requested.

Accordingly, the fee for plaintiff's FOIA request must be computed under the provisions of the FOIA.

Therefore, plaintiff's motion for summary disposition is granted. Plaintiff shall prepare an order consistent with this opinion and forthwith submit same to the Court pursuant to the Michigan Court Rules.

December 29, 1999


Stanley J. Latrelle
Circuit Court Judge

LOWER COURT DECISION AND ORDER

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

THE TITLE OFFICE, INC.,
a Michigan corporation,

Case No. 99-17173-CZ

Plaintiff,

Hon. Stanley J. Latreille

v

FULTON J. SHEEN, Allegan County Treasurer,
GARY LEININGER, Hillsdale County Treasurer,
NANCY HICKEY, Ionia County Treasurer,
JANET ROCHEFORT, Jackson County Treasurer,
HERMAN DRENTH, Kalamazoo County Treasurer,
DIANNE H. HARDY, Livingston County Treasurer,
KAREN MAKAY, Van Buren County Treasurer,

ORDER GRANTING
PLAINTIFF'S MOTION
FOR SUMMARY DISPOSITION

Defendants.

TRUE COPY
STANLEY J. LATREILLE
44th Circuit Court

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(616) 324-3000
Attorney for Defendant Karen Makay,
VanBuren County Treasurer

LOWER COURT DECISION AND ORDER

At a session of said Court held in the County of
Livingston, State of Michigan, this 25 day of
Jan, 2000.

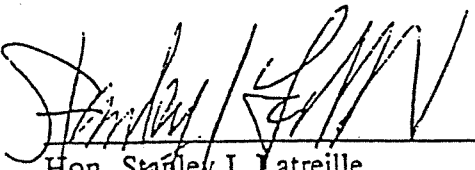
PRESENT: HONORABLE STANLEY J. LATREILLE

THIS MATTER coming to be heard on Plaintiff's Motion for Summary
Disposition, the Court having reviewed the briefs and arguments presented by counsel, and the
Court being otherwise fully advised on the premises;

IT IS HEREBY ORDERED that Plaintiffs' Motion for Summary Disposition is
GRANTED for the reasons stated in Judge Latreille's Opinion of December 29, 1999.

This resolves all pending claims and closes this case.

Dated: 1-31-00



Hon. Stanley J. Latreille
Circuit Court Judge

487114v3

COURT OF APPEALS ORDERS AND DECISION

Court of Appeals, State of Michigan

ORDER

Title Office Inc v Allegan Co Treasurer

Docket No. 225376; 225377

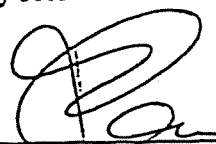
LC No. 99-017173-CZ

Peter D. O'Connell
Presiding Judge

Helene N. White

Michael R. Smolenski
Judges

The Court orders that the motion to affirm pursuant to MCR 7.211(C)(3) is DENIED for failure to persuade the Court that it is manifest that the questions to be reviewed are so unsubstantial as to need no argument or formal submission or were not properly raised.



Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP - 7 2001

Date

35A



Chief Clerk

COURT OF APPEALS ORDERS AND DECISION

STATE OF MICHIGAN
COURT OF APPEALS

TITLE OFFICE, INC.,

Plaintiff-Appellee,

v

VAN BUREN COUNTY TREASURER,

Defendant-Appellant,

and

ALLEGAN COUNTY TREASURER, BRANCH
COUNTY TREASURER, HILLSDALE COUNTY
TREASURER, IONIA COUNTY TREASURER,
JACKSON COUNTY TREASURER,
KALAMAZOO COUNTY TREASURER,
LIVINGSTON COUNTY TREASURER,

Defendants.

FOR PUBLICATION

January 18, 2002

9:30 a.m.

No. 225376

Livingston Circuit Court

LC No. 99-017173-CZ

TITLE OFFICE, INC.,

Plaintiff-Appellant,

v

ALLEGAN COUNTY TREASURER, BRANCH
COUNTY TREASURER, HILLSDALE
COUNTY TREASURER, IONIA COUNTY
TREASURER, JACKSON COUNTY
TREASURER, KALAMAZOO COUNTY
TREASURER, LIVINGSTON COUNTY
TREASURER,

Defendants-Appellants,

and

No. 225377

Livingston Circuit Court

LC No. 99-017173-CZ

COURT OF APPEALS ORDERS AND DECISION

VAN BUREN COUNTY TREASURER,

Defendant.

Before: O'Connell, P.J., and White and Smolenski, JJ.

SMOLENSKI, J.

In this consolidated case, defendants appeal as of right from a circuit court order granting plaintiff's motion for summary disposition. Under MCR 7.215(I)(1), we are bound to follow the rule established in *Oakland County Treasurer v The Title Office, Inc*, 245 Mich App 196; 627 NW2d 317 (2001), and therefore must affirm the circuit court's order. However, if not for the effect of MCR 7.215(I)(1), we would reverse the circuit court's order and remand for entry of summary disposition in favor of defendants. Therefore, we request that the Chief Judge of this Court convene a special panel to address this issue, as provided in MCR 7.215(I)(3).

I. Factual and Procedural Background

Under the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.*, plaintiff requested that each of the defendant county treasurers provide electronic copies of certain property tax records.¹ The county treasurers agreed to provide plaintiff with the requested electronic copies, but notified plaintiff that it would be required to pay the statutorily mandated fee of \$.25 per record, pursuant to the Transcripts and Abstracts of Records Act (TARA), MCL 48.101.² Plaintiff refused to pay the statutorily mandated fee, arguing that the FOIA required the county treasurers to provide the electronic copies for the "actual incremental cost" of reproducing the records. MCL 15.234(1).³ The county treasurers took the position that one of the exceptions to the FOIA cost provisions applied to plaintiff's request, and that plaintiff would have to pay the fees mandated by the TARA.

Plaintiff filed suit in circuit court, seeking an order in mandamus directing the county treasurers to provide plaintiff with electronic copies of the requested records. Plaintiff also sought an order prohibiting the county treasurers from charging plaintiff the statutory fee mandated by the TARA, and requiring the county treasurers to charge plaintiff only the "actual

¹ Plaintiff's requests apparently covered the entire property tax records of each county, over the span of several years.

² Given the voluminous records requested by plaintiff, the statutorily mandated fee would amount to a substantial sum. The Livingston County Treasurer stated, at the time plaintiff filed its request, that the statutory fee for reproduction of its records would amount to \$63,750. Likewise, the fee would have reached \$33,750 in Van Buren County, \$17,332.25 in Allegan County, and \$2,502.20 in Ionia County. However, the exact figures change as the counties continue to update their property tax records.

³ The parties do not dispute that the "actual incremental cost" of reproducing the records under MCL 15.234(1) would be far less than the \$.25 per record fee set forth in MCL 48.101.

COURT OF APPEALS ORDERS AND DECISION

incremental cost" of reproducing the electronic copies. Subsequently, defendant Livingston County Treasurer filed a complaint requesting a declaratory judgment that the TARA governed the cost of reproducing the electronic records requested by plaintiff. Both cases were consolidated for decision in the circuit court.⁴ Plaintiff moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that none of the FOIA's exceptions applied to its record request. The circuit court agreed, granted plaintiff's motion for summary disposition, and ordered the county treasurers to provide plaintiff with the requested records for no more than the "actual incremental cost" of reproduction. Defendants appeal as of right.

II. Standard of Review

A motion for summary disposition brought under MCR 2.116(C)(10) tests the factual support for a plaintiff's claim. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). When deciding such a motion, courts must consider the affidavits, pleadings, depositions, admissions, and other documentary evidence submitted or filed in the action, to determine whether a genuine issue of any material fact exists to warrant a trial. *Id.* We review de novo a trial court's grant of a party's motion for summary disposition. *Id.*

Furthermore, issues of statutory interpretation involve questions of law that are subject to de novo review. *Oakland Co Bd of Co Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n*, 456 Mich 590, 610; 575 NW2d 751 (1998). The primary goal of judicial interpretation of statutes is to discern and give effect to the intent of the Legislature. *People v Morey*, 461 Mich 325; 329-330; 603 NW2d 250 (1999); *Frankenmuth Mutual Ins Co v Marlette Homes, Inc.*, 456 Mich 511, 515; 573 NW2d 611 (1998). The rules of statutory construction merely serve as guides to assist the judiciary in determining legislative intent with a greater degree of certainty. *In re Quintero Estate*, 224 Mich App 682, 692-693; 569 NW2d 889 (1997).

Because our judicial role precludes imposing different policy choices than those selected by the Legislature, our obligation is, by examining the statutory language, to discern the legislative intent that may reasonably be inferred from the words expressed in the statute. If the language of a statute is clear and unambiguous, the plain meaning of the statute reflects the legislative intent and judicial construction is not permitted. We must give the words of a statute their plain and ordinary meaning. [*Herald Co v City of Bay City*, 463 Mich 111, 117-118; 614 NW2d 873 (2000) (citations omitted).]

III. FOIA Cost Provisions

Under the FOIA, all persons "are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them . . . so that they may fully participate in the democratic process." MCL 15.231(2). To that end, the FOIA contains specific

⁴ Plaintiff originally filed its complaint in Ottawa Circuit Court. The Livingston County Treasurer filed its declaratory action in Livingston Circuit Court. In plaintiff's action, defendants moved for a change of venue to Livingston County. The Ottawa Circuit Court granted that motion, and the two cases were consolidated for decision in the Livingston Circuit Court.

COURT OF APPEALS ORDERS AND DECISION

guidelines regarding the fee that government officials may charge for providing copies of government records covered by the act. MCL 15.234. In the present case, the parties do not dispute that the FOIA governs defendants' obligation to provide plaintiff access to the requested property tax records. Rather, the parties dispute whether the FOIA cost provisions govern the fee that plaintiffs must pay for the records. To resolve this question, we must examine the FOIA cost provisions and their exceptions.

The FOIA provides, in pertinent part:

(1) A public body may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record. Subject to subsections (3) and (4), the fee shall be limited to actual mailing costs, and to *the actual incremental cost of duplication* or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. . . .

(2) A public body may require at the time a request is made a good faith deposit from the person requesting the public record or series of public records, if the fee authorized under this section exceeds \$50.00. The deposit shall not exceed $\frac{1}{2}$ of the total fee.

(3) In calculating the cost of labor incurred in duplication and mailing and the cost of examination, review, separation, and deletion under subsection (1), a public body may not charge more than the hourly wage of the lowest paid public body employee capable of retrieving the information necessary to comply with a request under this act. Fees shall be uniform and not dependent upon the identity of the requesting person. A public body shall utilize the most economical means available for making copies of public records. A fee shall be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection.

(4) *This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.* [MCL 15.234 (emphasis added).]

Plaintiff argues that the county treasurers must provide the requested records for the "actual incremental cost" of reproducing those records, pursuant to subsection (1) of the above statute. However, defendants argue that one or both of the exceptions provided in subsection (4) apply to the present case because another statute, the TARA, either specifically authorizes the sale of property tax records to the public or specifically provides the amount of the fee for providing a copy of the public record to the public. We conclude that the TARA does not specifically authorize the sale of public records to the public, but does specifically provide the amount of the fee for providing a copy of the public record to the public. Accordingly, we would

COURT OF APPEALS ORDERS AND DECISION

hold that the FOIA's cost provisions do not apply to plaintiff's request for electronic copies of property tax records.

IV. Authorized Sale of Public Records

Defendants argue that the FOIA cost provisions do not apply in the present case because the TARA specifically authorizes the sale of property tax records to the public. We conclude that defendants' argument is incorrect, and that the trial court appropriately granted plaintiff's motion with regard to this issue.⁵ The TARA, provides, in pertinent part:

(1) A county treasurer shall make upon request a transcript of any paper or record on file in the treasurer's office for the following fees:

(a) For an abstract of taxes on any description of land, 25 cents for each year covered by the abstract.

(b) For an abstract with statement of name and residence of taxpayers, 25 cents per year for each description of land covered by the abstract.

(c) For list of state tax lands or state bids, 25 cents for each description of land on the list.

(d) For 1 copy of any paper or document at the rate of 25 cents per 100 words.

(e) For each certificate, 25 cents.

(2) For statements in respect to the payment of taxes required by section 135 of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.135 of the Michigan Compiled Laws, the county treasurer shall receive 20 cents for each description of land contained in the certificate but the total amount paid shall not be less than \$1.00.

(3) In no case shall any abstract, list, copy, or statement made as required by this act, be furnished for a sum less than 50 cents. [MCL 48.101.]

Defendants argue that the TARA clearly establishes a fee for the production of property tax records to members of the public, and thus falls within the exception to the FOIA cost provisions as "an act or statute specifically authorizing the sale of those public records to the public." MCL 15.234(4). Defendants' argument contains a common-sense appeal: because the Legislature determined the fee that a county treasurer must charge for a copy of a public record,

⁵ This Court's opinion in *Oakland County, supra*, does not control our disposition of this issue. In that case, the plaintiff county treasurer admitted that the TARA does not specifically authorize the sale of public records. *Id.* at 202. Therefore, this Court did not explicitly consider the first exception to the FOIA cost provisions. This Court addressed only the second exception, i.e., whether the TARA specifically provides the amount of the fee for providing copies of the relevant public records.

COURT OF APPEALS ORDERS AND DECISION

the Legislature obviously approved the sale of that public record to the public. However, adherence to the rules of statutory interpretation reveals that defendants' position is incorrect.

The first criterion in determining legislative intent is the specific language of the statute. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999); *People v Borchard-Ruhland*, 460 Mich 278, 284; 597 NW2d 1 (1999). The Legislature is presumed to have intended the meaning it plainly expressed, and the statute must be enforced as written. *Nation v WDE Electric Co*, 454 Mich 489, 494; 563 NW2d 233 (1997). If the statutory language is unambiguous, judicial construction is neither necessary nor permitted. *Sun Valley Foods Co v Ward*, 460 Mich 230, 236; 596 NW2d 119 (1999); *Toth v Autoalliance Int'l, Inc*, 246 Mich App 732, 737; 635 NW2d 62 (2001). Furthermore, in construing a statute, this Court must presume that every word has some meaning and must avoid any construction which would render any part of a statute surplusage or nugatory. *Borchard-Ruhland*, *supra* at 285; *Hoste v Shanty Creek Management, Inc*, 459 Mich 561, 574; 592 NW2d 360 (1999). As far as possible, effect should be given to every phrase, clause and word. *Sun Valley Foods*, *supra* at 237.

The Legislature clearly created two separate exceptions to the application of the FOIA cost provisions: (1) when a statute specifically authorizes the sale of public records, and (2) when a statute specifies the fee for providing a copy of the public record. MCL 15.234(4). If we adopted defendants' argument, then each time the second exception is satisfied, the first exception would likewise be satisfied, for each and every statute specifying the fee for providing a copy of a public record would be deemed to specifically authorize the sale of that public record. In our view, such an interpretation would render the first clause of MCL 15.234(4) meaningless. We must assume that the two clauses have separate and distinct meanings, because we must avoid a construction that would render any part of the statute surplusage or nugatory. *Borchard-Ruhland*, *supra* at 285. Therefore, we conclude that the TARA does not specifically authorize the sale of public records to the public, simply because the statute specifies the fee for providing a copy of those public records.⁶

Defendants' argument must also fail in light of this Court's holding in *Grebner v Clinton Charter Twp*, 216 Mich App 736; 550 NW2d 265 (1996). In that case, the plaintiff filed a FOIA request for copies of the defendants' voter registration rolls. *Id.* at 738. The defendants complied with the plaintiff's request, duplicating the voter registration rolls onto magnetic tape. *Id.* However, the defendants charged plaintiff a flat "per name" charge, meant to defray the defendants' capital expenditure in computerizing their maintenance of public records. *Id.* The plaintiff filed suit, arguing that the FOIA permitted the defendants to charge only the "actual incremental charge" of duplicating the information onto magnetic tape. *Id.* at 739.⁷ The defendants argued that the first of the exceptions to the FOIA cost provisions applied, based on their theory that the Michigan Election Law, MCL 168.1 *et seq.*, specifically authorized the sale of voter registration rolls. *Id.* at 742. The trial court granted summary disposition in favor of the

⁶ Furthermore, defendants' argument would fail to recognize the distinction between selling an original public record and providing a copy of a public record.

⁷ While the "actual incremental charge" of providing the requested information under the FOIA was only \$90, the defendants charged the plaintiff approximately \$640 under the "per name" method of computing the fee. *Grebner*, *supra* at 738-739.

COURT OF APPEALS ORDERS AND DECISION

plaintiff and ordered the defendants to refund the excess fee charged. *Id.* at 739. This Court affirmed, concluding that the Michigan Election Law did not qualify as a "statute specifically authorizing the sale" of voter registration rolls, so as to fall within the exception to the FOIA cost provisions. *Id.* at 742.

The *Grebner* Court reasoned that a statute "specifically" authorizing the sale of public records does so "explicitly." *Id.* at 743. The Court cited two statutes as examples of language that "specifically" authorized the sale of public records. *Id.* at 742-743. First, the Court referenced MCL 24.259(2), which provides that "[t]he department of management and budget shall hold [individual copies of the Michigan Register] for sale at a price not less than the publication and distribution costs." *Id.* at 743. Second, the Court referenced MCL 4.1204(3), which allows for "the sale of access" to legislative data bases. *Id.* The *Grebner* Court concluded that the Michigan Election Law, which simply permitted the county clerks to provide copies of voter registration lists to members of the public upon "payment" of a fee, did not "specifically" authorize the sale of those public records so as to fall within the first exception to the FOIA cost provisions. *Id.* at 743-744.

Applying the *Grebner* analysis in the present case, we conclude that the TARA does not "specifically" authorize the sale of property tax records to the public. Therefore, the trial court appropriately granted plaintiff's motion for summary disposition regarding this issue.

V. Specific Fee Provided By Statute

Defendants next argue that the FOIA cost provisions do not apply in the present case because the TARA specifically provides "the amount of the fee for providing a copy of the public record." We agree.

Although defendants advanced the same argument below, the trial court concluded that the TARA did not apply to plaintiff's record request. The trial court ruled:

[T]he Court finds that the Transcripts and Abstracts of Records Act does not specifically designate the amount of the fee for providing a copy of the public record. Although the Transcripts and Abstracts of Records Act designates the amount of the fee for abstracting or transcribing a portion of the record, plaintiff did not request a transcription or an abstract. Plaintiff requested a computer tape containing each county's property tax records. Thus, the statute does not specifically designate the amount of the fee for providing a copy of the record in the computer format requested.

Thus, the trial court's ruling hinged upon its definition of the statutory term "transcript." The TARA provides that a county treasurer shall, upon request, make "a transcript of any paper or record on file in the treasurer's office," in accordance with the specified fees. MCL 48.101. Plaintiff argued, and the trial court agreed, that an electronic copy of property tax records did not qualify as a "transcript" of those records. We conclude that the trial court erred as a matter of law in reaching that conclusion.

When a statute does not define a term, we will ascribe its plain and ordinary meaning. *Western Michigan Univ Bd of Control v State of Michigan*, 455 Mich 531, 539; 565 NW2d 828.

COURT OF APPEALS ORDERS AND DECISION

(1997). In the present case, the TARA does not contain a specific definition for the term “transcript.” When a statute does not expressly define a term, courts may consult dictionary definitions in order to ascertain the term’s ordinary meaning. *Popma v Auto Club Ins Ass’n*, 446 Mich 460, 470; 521 NW2d 831 (1994); *Ryant v Cleveland Twp*, 239 Mich App 430, 434; 608 NW2d 101 (2000). Therefore, we turn to the common understanding of the term “transcript” to resolve the present case. The common meaning of the term includes “something transcribed or made by transcribing,” and “an exact copy or reproduction, esp[ecially] one having an official status.” *Random House Webster’s College Dictionary* (1992), p 1416. Further, the term has been defined to mean “that which has been transcribed,” or a “copy of any kind.” *Black’s Law Dictionary* (6th ed), p 1497.

Plaintiff argues that the TARA governs only “written documents” and “paper copies.” However, the TARA does not contain the term “written,” and it does not state that a county treasurer shall make, upon request, a “paper copy” of its records. Rather, the statute applies broadly, requiring a county treasurer to make, upon request, “a transcript of any paper or record on file in the treasurer’s office.” MCL 48.101(1). An electronic copy of property tax records qualifies as a “transcript” of that record, for purposes of the TARA. The medium on which the record is copied is of no significance. A copy is a copy, whether the information is hand-written, typed, photocopied, or electronically copied; it remains a copy, whether the information is placed onto paper, magnetic tape, or a computer disk.

Plaintiff also argues that the Legislature could not have intended the TARA to apply to electronic copies of county records because the Legislature enacted the statute in 1895, before the invention of computers.⁸ However, if we accepted plaintiff’s logic, then we would also be compelled to hold that the schedule of fees contained in the TARA does not properly apply to typewritten copies or photocopies of county records, because the 1895 Legislature could not have envisioned the invention of typewriters or photocopy machines. The Legislature chose to frame the statute in broad terms, applying to “any paper or record” on file in the treasurer’s office. MCL 48.101. This language is certainly broad enough to include records that are not maintained on paper.

Given our conclusion that the TARA governs the fee that county treasurers must charge plaintiff for the records that plaintiff requested, we would reverse the circuit court’s ruling and remand for entry of summary disposition in defendants’ favor. However, given this Court’s decision in *Oakland County*, *supra*, we are bound to reach a different result. MCR 7.215(I)(1).

VI. *Oakland County Treasurer v The Title Office, Inc*

In *Oakland County*, *supra* at 198, this Court considered the application of the TARA, as a potential exception to the FOIA cost provisions, regarding the defendant’s request for electronic copies of the plaintiff Oakland County Treasurer’s property tax records.⁹ In that case, the panel did not explore the meaning of the statutory term “transcript.” Rather, the panel considered the

⁸ See 1895 PA 161, effective August 30, 1895.

⁹ The defendant in the *Oakland County* case is the same party that appears as plaintiff in the instant case.

COURT OF APPEALS ORDERS AND DECISION

statute's historical origins, and opined that the Legislature could not have intended for the TARA to apply to requests for electronic copies:

The Legislature enacted MCL 48.101 in 1895. 1895 PA 161. The last pertinent amendment took place in 1974, 1974 PA 141, when the Legislature raised the cost the counties could charge for copies. Clearly, the 1895 Legislature did not contemplate a charge for electronic copies when it enacted MCL 48.101. Moreover, when the Legislature amended the statute, over twenty-seven years ago, there still was no indication that it applied to electronic copies. This statute was clearly designed to compensate the county for its cost of manipulating data into certified transcripts, or abstracts. Plaintiff, in this case, would not incur the costs of certifying or making transcripts, and, therefore, the purpose of charging the statutory fees is absent. [*Id.* at 203.]

We disagree with the *Oakland County* panel's conclusion, for the reasons set forth above.¹⁰ We believe that the language of the TARA is broad enough to cover electronic copies of records kept on file in the offices of the county treasurers. Further, we believe that the TARA clearly falls within the second exception to the FOIA cost provisions, for situations where "the amount of the fee for providing a copy of the public record is otherwise specifically provided by

COURT OF APPEALS ORDERS AND DECISION

Court of Appeals, State of Michigan

ORDER

Title Office Inc v Allegan Co Treasurer

Docket No. 225376 & 225377

LC No. 99-017173-CZ

William C. Whitbeck, CJ
Presiding Judge

All Judges of the
Court of Appeals

Judges

The opinion in this matter has been reviewed pursuant to MCR 7.215(I). A majority of the Judges polled have determined that a special panel should not be convened to resolve any potential conflict with *Oakland Co Treasurer v The Title Office, Inc*, 245 Mich App 196; 627 NW2d 317 (2001). Therefore, a special panel will not convene.



Chief Judge William C. Whitbeck
Presiding Judge

McDonald, J., did not participate.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

February 8, 2002
Date

45A



Chief Clerk



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Library of Congress Cataloging-in-Publication Data

Random House Webster's college dictionary -- 2nd. ed.

p. cm.

ISBN 0-679-45570-1 (hardcover). -- ISBN 0-679-45858-1 (deluxe leather look edition)

1. English language--Dictionaries. I. Random House (Firm)

II. Title: Webster's college dictionary.

PE1628.R28 1997

423--DC21

97-903

CIP

ISBN 0-679-45570-1 (Hardcover)

0-679-45858-1 (Deluxe Leather-Look Edition)

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Random House Web address <http://www.randomhouse.com/>

Typeset and Printed in the United States of America

9 8 7 6 5 4 3 2

First Edition, 1991

Second Edition, 1997

New York Toronto London Sydney Auckland

transcendentalism to transgenic

- not the root of any algebraic equation with rational coefficients. Compare IRRATIONAL (def. 4). [1615-25; < ML *transcenduntis*. See TRANSCENDENT, -AL] —*trans-scen-den-tal-ly*, *adv.*
- trans-scen-den-tal-ism** (tran'sen den'tl iz'm, -sən-), *n.* 1. transcendental character, thought, or language. 2. Also called *transcendental philosophy*, any philosophy based upon the doctrine that the principles of reality are to be discovered by the study of the processes of thought, or a philosophy emphasizing the intuitive and spiritual above the empirical: in the U.S., associated with Emerson. [1795-1805; < G *Transcendentalismus*. See TRANSCENDENTAL, -ISM] —*trans-scen-den-tal-ist*, *n.*, *adj.*
- transcenden-tal medita-tion**, *n.* a technique, based on Hindu practices, for seeking serenity through regular meditation centered upon the repetition of a mantra. Abbr.: TM [1965-70]
- trans-con-ti-nen-tal** (trans'kon tən en'tl), *adj.* 1. passing or extending across a continent: a *transcontinental* railroad. 2. on the other, or far, side of a continent. [1850-55] —*trans-con-ti-nen-tal-ly*, *adv.*
- trans-scribe** (tran skrib'), *v.t.*, -scribed, -scribing. 1. to make a written or typed copy of (spoken material). 2. to make an exact copy of (a document, text, etc.). 3. to write out in another language or alphabet; translate or transliterate. 4. to represent (speech sounds) in written phonetic symbols. 5. to make a recording of (a program, announcement, etc.) for broadcasting. 6. to make a musical transcription of. 7. to cause to undergo genetic transcription. [1545-55; < L *transcribere* = *trans-* TRANS- + *scribere* to write] —*trans-scrib'er*, *n.*
- trans-script** (tran'skript), *n.* 1. a written, typewritten, or printed copy; something transcribed or made by transcribing. 2. an exact copy or reproduction, esp. one having an official status. 3. an official school report on the record of a student, listing courses, grades received, etc. [1250-1300; ME *transcrit* < OF < L *transcriptum* thing copied, *n.* use neut. ptp. of *transcribere* to TRANSCRIBE]
- trans-script-ase** (tran skrip'tās, -tāz), *n.* RNA POLYMERASE. [1963; TRANSCRIPT(ION) + -ASE]
- trans-scrip-tion** (tran skrip'shən), *n.* 1. the act or process of transcribing. 2. something transcribed. 3. a transcript; copy. 4. the arrangement of a musical composition for a medium other than that for which it was orig. written. 5. a recording made esp. for broadcasting on radio or television. 6. *Genetics*, the process by which messenger RNA is synthesized on a template of DNA. [1590-1600; < L *transcripsiō*. See TRANSCRIPT, -ION] —*trans-scrip-tion-al*, *adj.*
- trans-cu-ta-ne-ous** (trans'kyōō tā'nē əs), *adj.* by way of or through the skin. [1940-45]
- trans-der-mal** (trans dūr'māl, tranz-), *adj.* 1. Also, *trans-der/mic*, transcutaneous. 2. (of a medication) applied to the skin, usu. as part of an adhesive patch, for absorption into the bloodstream. [1975-80]
- trans-duce** (trans dōōs', -dyōōs', tranz-), *v.t.*, -duced, -duc-ing. 1. to convert (energy) from one form into another. 2. to cause transduction in. [1945-50; back formation from TRANSDUCER or TRANSDUCTION]
- trans-duc-er** (trans dōō'sər, -dyōō's', tranz-), *n.* a device, as a microphone, that converts a signal from one form of energy to another.
- trans-duc-tion** (trans duk'shən, tranz-), *n.* the transfer of genetic material from one cell to another by means of a virus. [1952; TRANS- + -duction, as in INDUCTION, PRODUCTION, etc.] —*trans-duc-tant* (-tənt), *n.* —*trans-duc-tion-al*, *adj.*
- trans-sect** (tran sekt'), *v.t.* to cut across; dissect transversely. [1625-35; TRAN(S)- + L *sectus*] —*trans-sec-tion*, *n.*
- trans-sept** (tran'sept), *n.* 1. any major transverse part of the body of a church, usu. crossing the nave, at right angles, at the entrance to the choir. 2. an arm of this, on either side of the central aisle of a church. [1530-40; < AL *transseptum*. See TRANS-, SEPTUM] —*trans-sep'tal*, *adj.*
- transf.**, 1. transfer. 2. transferred.
- trans-fec-tion** (trans fek'shən), *n.* the insertion into a bacterial cell of a viral nucleic acid in order to cause the cell to produce the virus. [1964; TRANS- + (IN)FECTION] —*trans-fect'*, *v.t.*
- trans-fer** (v. trans fūr', trans'fər; *n.* trans'fər), *v.*, -ferred, -fer-ring, *n.* —*v.t.* 1. to convey or remove from one place, person, or position to another. 2. to cause to pass from one person to another, as thought or power; transmit. 3. *Law*, to make over the possession or control of: to *transfer a title to land*. 4. to imprint, impress, or otherwise convey (a drawing, design, etc.) from one surface to another. —*v.i.* 5. to remove oneself or be moved from one place, position, or job to another. 6. to withdraw from one school, college, etc., and enter another. 7. to change from one bus, train, etc., to another. —*n.* 8. a means or system of transferring. 9. an act of transferring. 10. the fact of being transferred. 11. a point or place for transferring. 12. a ticket entitling a passenger to continue a journey on another bus, train, or the like. 13. a drawing, design, etc., that is or may be transferred from one surface to another, usu. by direct contact. 14. a person who has transferred, as from one college to another. 15. *Law*, the conveyance to another, as by sale or gift, of real or personal property. 16. the positive or negative influence of prior learning on subsequent learning. [1350-1400; ME (v.) < L *transfere* = *trans-* TRANS- + *ferre* to BEAR, carry] —*trans-fer-a-ble*, *trans-fer-ra-ble*, *adj.* —*trans-fer-a-bil-i-ty*, *n.* —*trans-fer-er*, *n.*
- trans-fer-al or trans-fer-ral** (trans fūr'al), *n.* transference; transfer.
- trans-fer-ase** (trans'fə rās', -rāz'), *n.* any of a group of enzymes, as the transaminases, that effect the transfer of an organic group from one compound to another. [1945-50]
- trans-fer-ee** (trans'fə rē'), *n.* 1. a person to whom property is transferred. 2. a person who is transferred. [1730-40]
- trans-fer-ence** (trans fūr'əns, trans'fər əns), *n.* 1. the act or process of transferring. 2. the fact of being transferred. 3. Psychology, the shift of emotions, esp. those experienced in childhood, from son or object to another, esp. the transfer of feelings about an analyst. b. DISPLACEMENT (def. 7). [1675-85; < NL. See TRANSFER, -ENCE] —*trans-fer-en-tial* (-fə ren'shəl), *adj.*
- trans-fer fac-tor**, *n.* a lymphocyte product that, when from T cells of an individual with immunity to a particular cancer that immunity when administered to another of the same species. [1955-60]
- trans-fer-or** (trans fūr'ər), *n.* *Law*, a person who transfers property. [1870-75]
- trans-fer pay-ment**, *n.* any payment made by a government purpose other than that of purchasing goods or services, for fare benefits. [1940-45]
- trans-fer-rin** (trans fer'in), *n.* a plasma glycoprotein that transfers dietary iron to the liver, spleen, and bone marrow. [1947; *trans-fer(r)us* iron + -in]
- transfer RNA**, *n.* any of a class of small, cloverleaf forms that transfer unattached amino acids in the cell cytoplasm to some for protein synthesis. Abbr.: tRNA [1960-65]
- trans-fig-u-ra-tion** (trans'fig yə rā'shən, trans'fig-), *n.* 1. transfiguring. 2. the state of being transfigured. 3. (comp.) a natural and glorified change in the appearance of Jesus Christ. Matt. 17:1-9. b. the festival commemorating this in the Roman Catholic Church on August 6 and by Protestants in the U.S. on the last Sunday after Epiphany. [1325-75; < L *transfiguratio* change of shape. See TRANSFIGURE, -ATION]
- trans-fig-ure** (trans fig'yər; esp. Brit. -fig'ər), *v.t.*, -ured, to change in outward form or appearance; transform. 2. to use as to glorify or exalt. [1250-1300; ME < L *transfigurare* to shape. See TRANS-, FIGURE] —*trans-fig-ure-ment*, *n.*
- trans-fix** (trans fiks'), *v.t.*, -fixed or fixt, -fix-ing. 1. to pierce motionless with amazement, awe, terror, etc. 2. to pierce with or as if with a pointed weapon; impale. 3. to hold or fasten on something that pierces. [1580-90; < L *transfixare* to pierce through = *trans-* TRANS- + *fixare* to fix] —*trans-fix-ion* (-fik'shən), *n.*
- trans-form** (v. trans fōrm', *n.* trans'fōrm), *v.t.* 1. to change appearance, or structure; metamorphose. 2. to change nature, or character; convert. 3. to change into another state to alter (voltage and current) by means of an electrical transformer. *Math.* to change the form of (a figure, expression, etc.) without general changing the value. —*v.i.* 6. to undergo a change in appearance, or character. —*n.* 7. a. a mathematical quantity derived from a given quantity by an algebraic, geometric, or functional transformation. b. the transformation itself. 8. *Logic*, TRANSFORMATION. 9. a linguistic structure derived by a transformation. [1300-40; < L *transformare* to change in shape. See TRANS-, FORM] —*trans-form-a-ble*, *adj.* —*trans-form-a-tive*, *adj.* —*Syn.* TRANSFORM VERB mean to change one thing into another. TRANSFORM means to change the outward form or inner character: a frog transforms into a prince; delinquents transformed into responsible citizens. TRANSFORM VERB usually means to modify or adapt so as to serve a new use or function: to convert a barn into a house.
- trans-for-ma-tion** (trans'fər mā'shən), *n.* 1. the act or process of transforming. 2. the state of being transformed. 3. change in appearance, nature, or character. 4. *Logic*, a mapping between equivalent expressions. 5. FUNCTION (def. 4a). 6. *Ling.* a TRANSFORMATION RULE. b. the process by which deep structures are converted into surface structures using transformational rules. 7. the transfer of material from one cell to another resulting in a genetic change recipient cell. [1400-50; late ME < LL *transformatiō* change of shape. See TRANS-, FORMATION] —*trans-for-ma-tion-al*, *adj.*
- transforma-tional gram-mar**, *n.* a system of grammatical rules, esp. a form of generative grammar, that posits the existence of deep structure and surface structure and uses a set of transformational rules to derive surface structure forms from deep structure. [19]
- transforma-tional rule**, *n.* a rule in transformational grammar that relates two equivalent structures in converting the underlying form of a sentence into its surface representation, as by reordering, or deleting elements.
- trans-form-er** (trans fōr'mər), *n.* 1. a person or thing that transforms. 2. a device that uses electromagnetic induction to transfer electrical energy from one circuit to another, usu. with a change in voltage and current. [1595-1605]
- trans-fuse** (trans fyōōz'), *v.t.*, -fused, -fus-ing. 1. to transfer or from one to another; transmit. 2. to diffuse into or through; permeate. 3. a. to transfer a fluid by injection into a vein or artery. b. give a transfusion to. 4. *Archaic*, to pour from one container into another. [1375-1425; late ME < L *transfusio*, ptp. of *transfundere* to pour] —*trans-fus'er*, *n.* —*trans-fus-i-ble*, *trans-fus-ible*, *adj.* —*trans-fu-sive* (-fyōō'siv-, -ziv), *adj.*
- trans-fu-sion** (trans fyōō'zhən), *n.* 1. the act or process of transfusing. 2. the direct transferring of blood, plasma, etc., into a blood vessel. [1570-80; < L *transfusio* decanting, intermingling]
- trans-gen-dered** (trans jen'dərd, tranz-) also *trans-gen-der-ed*, 1. appearing or attempting to be a member of the opposite sex transsexual, habitual cross-dresser, or hermaphrodite. 2. of or pertaining to a transgendered person or transgendered people: the transgender movement. [1990-95]
- trans-gen-ic** (trans jen'ik, tranz-), *adj.* of, pertaining to, or involving a gene or genes transferred from another species: *transgenic*

n-kle (ring/kəl), *n.* innovation; trick: *a new advertising wrinkle*. 375-1425; late ME, = *wrinc* trick (OE *wrenc*; see *WRENCH*) + *-le*

ist (rist), *n.* 1. Also called *carpus*. *a.* the lower part of the forearm, where it joins the hand. *b.* the joint or articulation between the forearm and the hand. 2. the part of a garment that fits around the wrist. ef. 950; ME, OE, c. MLG *wrist*, MHG *rist* wrist, instep, ON *rist* in-*sp*

ist-band (rist/band'), *n.* 1. the band of a sleeve that covers the wrist; cuff. 2. a strap attached to a wristwatch and worn around the wrist. 3. a cloth band worn on the wrist to absorb perspiration. 565-75]

ist-let (rist/'lit), *n.* a protective or ornamental wristband. [1840-]

ist-pin, *n.* a pin joining the end of a connecting rod to the end of a piston rod. [1870-75]

ist-watch or **wrist-watch**, *n.* a watch attached to a strap or band worn about the wrist. [1895-1900]

it' (rit), *n.* 1. *a.* a sealed document, issued in the name of a court, government, sovereign, etc., directing an officer or official to do or refrain from doing some specified act. *b.* (in early English law) any formal document in letter form, under seal, and in the sovereign's name, something written; a writing: *sacred writ*. [bef. 900; ME, OE, c. HG *riz* stroke, ON *rit* writing, Go *writs* serif; akin to *WRITE*]

it' (rit), *v.* *Archaic.* a pt. and pp. of *WRITE*.

ite (rit), *v.* *wrote, writ-ten, writing.* —*v.t.* 1. to trace or form characters, letters, words, etc., esp. on paper, with a pen, pencil, or her instrument or means: *Write your name on each page.* 2. to express or communicate in writing: *He wrote that he would be visiting on.* 3. to communicate with by letter or note: *I write her every week.* to fill in the blank spaces of (a printed form) with writing: *to write check.* 5. to execute or produce by setting down words, figures, etc.: *write two copies of a letter.* 6. to produce as a written message: *to write a thank-you note.* 7. to be the author or originator of; compose: *write a sonnet.* 8. to impress the marks or indications of: *Honesty is written on his face.* 9. to transfer (data, text, etc.) from computer memory to an output medium. 10. to underwrite. —*v.i.* 11. to trace form characters, words, etc., with a pen, pencil, or other instrument or means, or as a pen or the like does: *He writes with a pen. My pen writes beautifully.* 12. to express ideas in writing. 13. to write a letter or letters, or communicate by letter: *Write whenever you can.* 14. to compose or work as a writer or author: *to write for a living.* 15. **write down**, *a.* to set down in writing; record; note. *b.* to direct one's writing to a less intelligent reader or audience: *He writes down to the public.* 16. **write in**, *a.* to vote for (a candidate not listed on the ballot) by writing his or her name on the ballot. *b.* to include or add to a text by writing: *Do not write in corrections on the galaxy.* *c.* to request something by mail: *If interested, please write in for details.* 17. **write off**, *a.* to cancel (an unpaid or uncollectible debt). to regard as worthless or irreparable; decide to forget: *to write off a bad experience.* *c.* to amortize: *The new equipment was written off in three years.* 18. **write out**, *a.* to put into writing. *b.* to write in full form; state completely. *c.* to exhaust the capacity or resources of (oneself) by excessive writing: *another author who has written herself out.* 19. **write up**, *a.* to put into writing, esp. in full detail: *Write up a report.* *b.* to present to public notice in a written description or account. —*Idiom.* 20. **nothing (or something) to write home about**, (thing (or something) worth one's notice: *This place is nothing to write home about.* 21. **write the book**, to be the originator or recognized authority: *I'd trust their judgment about nuclear energy; they've written the book.* [bef. 900; ME; OE *writan*, c. OS *writan* to write, OHG *rizan*, ON *rita*]

ite-in', *n.* a candidate or vote for a candidate not listed on the printed ballot but written onto it by the voter. [1930-35]

ite-off, *n.* 1. a cancellation from the accounts as a loss. 2. a reduction in book value; depreciation. 3. a person or thing that is given up as hopeless or pointless. [1745-55]

it-er (ri'tar), *n.* 1. a person engaged in writing books, articles, stories, etc., esp. as an occupation or profession. 2. a person who commits thoughts to writing: *an expert letter writer.* 3. someone who sells book options. [bef. 900]

it'er's cramp, *n.* spasmodic, painful contractions of the muscles of the hand and forearm from constant writing. [1850-55]

ite-up, *n.* 1. a written description or account, as in a newspaper or magazine: *The play got a terrible write-up.* 2. an increase in the book value of an asset, as to compensate for inflation. [1880-85]

the (ri'di), *v.* *writhed, writh-ing.* *n.* —*v.i.* 1. to twist the body about, as in pain or effort. 2. to suffer acute embarrassment. —*v.t.* 3. to twist or bend out of shape or position; contort. 4. to twist (oneself, the body, etc.) about, as in pain. —*n.* 5. a twisting of the body, as in pain. [bef. 900; ME; OE *writan* to twist, wind, c. OHG *ridan*, ON *rita*; akin to *WRATH*] —*writ*/'er, *n.* —*writ*/'ing-ly, *adv.*

it-ing (ri'ting), *n.* 1. the act of a person or thing that writes. 2. matter written with a pen or the like: *His writing is illegible.* 3. written form: *Put the agreement in writing.* 4. a legal document, as a contract or deed. 5. an inscription. 6. literary or musical composition. 7. the style, form, quality, etc., of such composition. 8. the profession of writer. 9. the Writings. HAGIOGRAPHY. [1175-1225]

it-ing desk, *n.* 1. a piece of furniture with a surface for writing on, usu. with drawers and compartments for writing materials. 2. a portable case that holds writing materials and that when opened

writ-ing pa'per, *n.* paper that is esp. suitable for writing on in ink; stationery. [1540-50]

writ' of assist'ance, *n.* (before the American Revolution) a writ authorizing officers of the British crown to search any premises for smuggled goods. [1700-10]

writ' of certiorari, *n.* CERTIORARI. [1815-25]

writ' of error, *n.* a writ issued by an appellate court directing the court of record to send a trial record to the appellate court to be examined for possible errors.

writ' of prohibi'tion, *n.* a command by a higher court that a lower court shall not exercise jurisdiction in a particular case. [1875-80]

writ' of sum'mons, *n.* a writ requiring one to appear in court to answer a complaint. [1835-45]

writ-ten (rit'n), *v.* 1. a pp. of *WRITE*. —*adj.* 2. expressed in writing (disting. from *spoken*).

wrmt., warrant.

Wroc-law (vrók's/láf), *n.* a city in SW Poland on the Oder River. 1,119,000. German, Breslau.

wrong (rông, rong), *adj.* 1. not in accordance with what is morally right or good: *a wrong deed.* 2. deviating from truth or fact; erroneous: *a wrong answer.* 3. not correct in action, judgment, opinion, etc., as a person; in error. 4. not proper or usual; not in accordance with rules or practice. 5. out of order; awry; amiss: *Something is wrong with the machine.* 6. not suitable or appropriate: *the wrong shoes with that dress.* 7. of or designating the side ordinarily kept inward or under: *to wear a sweater wrong side out.* —*n.* 8. something improper or not in accordance with morality, goodness, or truth; evil. 9. an injustice. 10. *Law.* *a.* an invasion of another's right, resulting in that person's suffering or damage. *b.* a tort. —*adv.* 11. in a wrong manner; not rightly; awry; amiss. —*v.t.* 12. to do wrong to; treat unfairly or unjustly; harm. 13. to impute evil to (someone) unjustly; malign. —*Idiom.* 14. **go wrong**, *a.* to go amiss; fail. *b.* to pursue an immoral course; become depraved: *Bad friends caused him to go wrong.* 15. **in the wrong**, to blame; in error: *to be in the wrong without admitting it.* [bef. 1100; ME *wrong*, *wrang*, late OE *wrang* < Scand; cf. Dan *wrang* wrong, ON *rangr* awry; akin to *WRING*] —*wrong*/'er, *n.* —*wrong*/'ly, *adv.* —*wrong*/'ness, *n.*

wrong-do-er (rông/dôo'er, -dôo'-. rông'-), *n.* a person who does wrong, esp. a sinner or transgressor. [1350-1400]

wrong-do-ing (rông/dôo'ing, -dôo'-. rông'-), *n.* 1. wrong, evil, or blameworthy behavior. 2. a misdeed; sin. [1470-80]

wronged (rôngd, rongd), *adj.* treated unfairly or unjustly. [1540-50]

wrong-ful (rông'fál, rông'-), *adj.* 1. unjust or unfair: *a wrongful act.* 2. having no legal right; unlawful: *a wrongful diversion of trust income.* [1275-1325] —*wrong*/'ful-ly, *adv.* —*wrong*/'ful-ness, *n.*

wrong/head'ed or **wrong'-head'ed**, *adj.* wrong in judgment or opinion; misguided and stubborn; perverse. [1725-35] —*wrong*/'head'ed-ly, *adv.* —*wrong*/'head'ed-ness, *n.*

wrote (rôth), *v.* a pt. of *WRITE*.

wroth (rôth, roth; esp. Brit. rôth), *adj.* angry; wrathful (usu. used predicatively): *He was wroth to see the damage to his home.* [bef. 900; ME; OE *wrath*, c. OS *wrêth*, OHG *reid*, ON *reithr*; akin to *WRATH*]

wrought (rôt), *v.* 1. *Archaic except in some senses.* a pt. and pp. of *WORK*. —*adj.* 2. worked. 3. elaborated; embellished. 4. not rough or crude. 5. produced or shaped by beating with a hammer, as iron or silver articles. [1200-50; ME *wrought*, metathetic var. of *worht*, ptp. of *worken* to work] —*Syn.* See *WORKED*.

wrought'-iron, *n.* a form of iron, nearly free of carbon and having a fibrous structure including a uniformly distributed slag content, that is readily forged and welded. [1670-80] —*wrought*/'-iron, *adj.*

wrought-up, *adj.* excited; perturbed; worked up. [1800-10]

wring (rung), *v.* a pt. and pp. of *WRING*.

wry (ri), *adj.* *wrie-er, wrie-est.* 1. distorted; lopsided: *a wry grin.* 2. abnormally bent or turned to one side; twisted. 3. devious in course or purpose; misdirected. 4. contrary; perverse. 5. bitingly ironic or amusing: *a wry remark.* [1515-25; *adj.* use of *wry* to twist, ME; OE *wrigian* to go, strive, tend, swerve, c. OFris *wrigia* to bend; akin to Gk *rhôikos* crooked] —*wry*/'ly, *adv.* —*wry*/'ness, *n.*

wry-neck (ri'nek'), *n.* 1. *Informal.* *a.* TORTICOLLIS. *b.* a person having torticollis. 2. either of two small Old World birds of the genus *Jynx*, of the woodpecker family, with mottled gray-brown plumage, noted for their snakelike contortions of the neck when disturbed on the nest. [1575-85]

W.S., West Saxon.

WSW, west-southwest.

wt., weight.

Wu (wôo), *n.* a group of Chinese dialects spoken principally in Jiangsu and the Yangtze, Zhejiang, and parts of NE Jiangxi.

Wu-chang (wôo'châng'), *n.* a former city in E Hubei province, in E China; now part of Wuhan.

Wu-han (wôo'hân'), *n.* the capital of Hubei province, in E China, at the junction of the Han and Chang Jiang; comprises the former cities of Hankou, Hanyang, and Wuchang. 3,400,000. Also called *Han Cities*.

Wu-hsi (Chin. wôo'shê'), *n.* Wuxi.

Wu-hu (wôo'hôo'), *n.* a port in E Anhui province, in E China, on the Chang Jiang. 456,219.

wul-fen-ite (wôo'l'fa nit'), *n.* a yellow to red, usu. crystalline mineral, lead molybdate, PbMoO₄, an ore of molybdenum. [1840-50; after F. X. von Wulfen (1728-1805), Austrian scientist; see *-ite*]

Wul-fi-la (wôo'l'fa la), *n.* ULFILA.

outlive to outsmart

cussion. —v.t. 5. to draw the outline of, or draw in outline. 6. to indicate the main features of. [1655-65]

out-live (out/'liv/), v.t., -lived, -liv-ing. 1. to live longer than; survive. 2. to outlast; live through. [1425-75] —Syn. See survive.

out-look (out/'lök/), n. 1. the view or prospect from a particular place. 2. mental attitude or view; point of view. 3. prospect for the future: *the political outlook*. 4. the place from which an observer looks out. 5. the act or state of looking out. [1660-70]

out-ly-ing (out/'li/ing), adj. 1. lying at a distance from the center or the main body; remote. 2. lying outside the boundary. [1655-65]

out-ma-neu-ver (out/'mä nö/'var), v.t. 1. to outwit or defeat by maneuvering. 2. to surpass in maneuvering. [1790-1800]

out-match (out/'mach/), v.t. to be superior to; surpass; outdo. [1595-1605]

out-/mi-/grate, v.i., -grat-ed, -grat-ing. to leave a region, community, etc., and settle in a different part of one's country. [1950-55] —out-/migrat-ion, n.

out-mod-ed (out/'mö'did/), adj. 1. no longer fashionable or stylish. 2. no longer acceptable or usable; obsolete.

out-most (out/'möst/; esp. Brit -mäst), adj. farthest out; outermost.

out-num-ber (out/'num/bär/), v.t. to exceed in number. [1660-70]

out-of-bod-y, adj. of, pertaining to, or characterized by the dissociative sensation of perceiving oneself from an external vantage point, as though the mind or soul has left the body and is acting on its own. [1970-75]

out-/of-bounds, adv., adj. outside or beyond designated or established limits. [1855-60]

out-/of-date, adj. gone out of style or fashion; outmoded; obsolete.

out-/of-doors, adj. 1. Also, **out-/of-door**. OUTDOOR. —n. 2. (used with a sing. v.) OUTDOORS. [1800-10]

out-/of-pock-et, adj. paid out or owed in cash.

out-/of-sight, adj. 1. Slang. marvelous; great. 2. exceedingly high: *an out-of-sight hospital bill*. [1895-1900, Amer.]

out-/of-state, adj. in or from another state of the U.S. [1930-35, Amer.] —out-/of-stat'er, n.

out-/of-the-way, adj. 1. remote from much-traveled or populous regions; isolated. 2. seldom encountered; unusual. 3. giving offense; improper or uncalled-for: *an out-of-the-way remark*. [1250-1300]

out-pace (out/'pä's/), v.t., -paced, -pac-ing. 1. to go faster than. 2. to outdo. [1565-75]

out-pa-tient or **out-/pa-tient**, n. a person who receives treatment at a hospital but is not hospitalized. [1705-15]

out-per-form (out/'par förm/), v.t. to surpass in excellence of performance. [1955-60]

out-place-ment (out/'pläs/mant/), n. assistance in finding a new job, provided by a company for an employee who is being let go. [1965-70] —out/place/, v.t., -placed, -plac-ing.

out-point (out/'point/), v.t. 1. to excel in number of points, as in a competition or contest. 2. to sail closer to the wind than (another ship). [1585-95]

out-post (out/'pöst/), n. 1. a station established at a distance from an army to protect it from surprise attack. 2. the body of troops stationed there. 3. a post or settlement in a foreign environment. [1750-60]

out-pour (n. out/'pör/, -pör'; v. out/'pör/, -pör/), n. 1. OUTPOURING. —v.t. 2. to pour out. [1665-75]

out-pour-ing (out/'pör/ing, -pör'/), n. something that pours out; outflow; overflow: *an outpouring of sympathy*. [1750-60]

out-pull (out/'pööl/), v.t. OUTDRAW (def. 2). [1925]

out-put (out/'püt/), n., v., -put-ted or -put, -put-ting. —n. 1. the quantity of something produced, esp. in a specified period. 2. the material produced; product; yield. 3. the current, voltage, power, or signal produced by an electrical or electronic circuit or device. Compare INPUT (def. 4). 4. a. any information made available by computer, as on a printout, display screen, or disk. b. the process of transferring such information from computer memory to or by means of an output device. 5. the power or force produced by a machine. —v.t. 6. to transfer (computer output). 7. to produce; yield; turn out. [1855-60]

out-race (out/'räs/), v.t., -raced, -rac-ing. to outpace. [1650-60]

out-rage (out/'räj/), n., v., -raged, -rag-ing. —n. 1. an act of wanton cruelty or violence. 2. anything that strongly offends or affronts the feelings. 3. a powerful feeling of resentment or anger aroused by an injury, insult, or injustice. —v.t. 4. to subject to grievous violence or indignity. 5. to anger or offend; shock. 6. to offend against (right, decency, feelings, etc.) grossly or shamelessly. [1250-1300; < OF outrage, outrage = outr(er) to push beyond bounds (der. of ourre beyond < L ultra) + -age -AGE]

out-ra-geous (out rä/'jas), adj. 1. of or involving gross injury or wrong. 2. grossly offensive to the sense of right or decency: *outrageous behavior*. 3. passing reasonable bounds: *an outrageous price*. 4. violent in action or temper. 5. extravagant; remarkable: *outrageous cleverness*. [1275-1325; < MF outrageous. See OUTRAGE, -OUS] —out-ra-geously, adv. —out-ra-geous-ness, n.

out-rank (out/'rangk/), v.t. to have a higher rank than. [1835-45, Amer.]

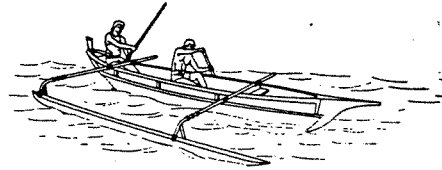
out-tré (öö trā/), adj. passing the bounds of what is usual or considered proper; unconventional; bizarre. [1715-25; < F]

out-reach (v. out/'rēch/; n., adj. out/'rēch/), v.t. 1. to reach beyond; exceed: *Demand has outreached supply*. —v.i. 2. to reach out; extend: *an act or instance of reaching out*. 4. length or extent of reach: *the act of extending community services to a wider section of the population*. —adj. 6. concerned with extending community services. [1670-70]

out-ride (out/'rid/), v., -rode, -rid-den, -rid-ing. —v.t. 1. to outdo riding. 2. (of a ship) to come safely through (a storm). [1520-30]

out-rid-er (out/'ri/dər/), n. 1. a mounted attendant riding before or side a carriage. 2. a mounted rider who accompanies a racehorse the post. 3. a person who goes in advance. [1520-30]

out-rig-ger (out/'rig/ər/), n. 1. a framework supporting a float tended outboard from the side of a boat for increasing stability. bracket extending outward from the side of a racing shell to support an oarlock. 3. the shell itself. 4. a spar rigged out from a ship's rail like, as for extending a sail. 5. a projecting beam, as for supporting a hoisting tackle. 6. a structure extending outward from a craft or the like to increase stability or provide support. [1740-50]



outrigger (def. 1)

out-right (adj. out/'rit/; adv. out/'rit/, -rit'/), adj. 1. complete; total; downright; unqualified: *an outright refusal*. 3. involving no further payments due or other restrictions: *an outright sale*. 4. Archaic. rected straight out or on. —adv. 5. completely; entirely. 6. without strain, reserve, or concealment; openly. 7. at once; instantly: *to kill outright*. 8. without further payments due or other restrictions: *to own the house outright*. [1250-1300] —out/right-ness, n.

out-run (out/'run/), v.t., -ran, -run, -run-ning. 1. to run faster or further than. 2. to exceed; surpass. [1520-30] —out/run-ner, n.

out-sell (out/'sel/), v.t., -sold, -sell-ing. 1. to surpass in salesmanship or selling. 2. to exceed in number of sales. [1605-15]

out-set (out/'set/), n. beginning; start. [1530-40]

out-shine (out/'shin/), v., -shone or -shined, -shin-ing. —v.t. 1. shine more brightly than. 2. to surpass in excellence, achievement, etc. —v.i. 3. to shine out or forth. [1590-1600]

out-shoot (v. out/'shoot/; n. out/'shoot/), v.t., -shot, -shoot-ing. 1. surpass in shooting, esp. in accuracy. 2. to shoot beyond.

out-side (n. out/'sid/, -sid'; adj. out/'sid/, -sid'/; adv. out/'sid/, -sid'/), n. 1. the outer side, surface, or part; exterior; the external aspect or appearance. 3. the space beyond an enclosure boundary, etc. 4. a position away or farther away from the inside center: *the horse on the outside*. 5. Basketball. a position away or further away from the basket, usu. fifteen feet or more. —adj. 6. or nating beyond an enclosure, boundary, etc.: *news from the outside world*. 7. situated on or pertaining to the outside; exterior. 8. situated away from the inside or center: *the outside lane*. 9. not belonging to a specified group: *outside influences*. 10. extremely unlikely or remote: *an outside chance for recovery*. 11. extreme or maximum: *an outside estimate*. 12. being in addition to one's regular work or duties: *outside interest; an outside job*. 13. working on the outside, as a place: *an outside man to care for the grounds*. 14. Baseball. (a pitched ball) passing, but not going over, home plate on the side opposite the batter. —adv. 15. on or to the outside: *Take the dog outside*. 16. in or to an area beyond a given place: *Citizens are forbidden to travel outside*. —prep. 17. on the outside of: *a noise outside the door*. 18. beyond the confines or borders of: *visitors from outside country*. 19. aside from: *She has no interests outside her work*. —Idiom. 20. at the outside, at the utmost limit; at the maximum. 21. outside of, other than; excepting. [1495-1505]

out-sid-er (out/'si/dər/), n. a person not part of a particular group.

out-sight (out/'sīt/), n. the ability to comprehend external things. Compare INSIGHT. [1590-1600; on the model of INSIGHT]

out-size (out/'siz/), n. 1. an uncommon or irregular size, esp. larger than average. 2. a garment of such a size. —adj. 3. Also, **out-sized**, being unusually or abnormally large. [1835-45]

out-skirt (out/'skürt/), n. 1. Often, **outsirts**, the outlying district or region, as of a city. 2. Usu., **outsirts**, border; fringes. [1590-1600]

out-smart (out/'smärt/), v.t. 1. to get the better of (someone); outwit. —Idiom. 2. outsmart oneself, to defeat oneself through the very schemes one has perpetrated to promote one's own welfare or profit. [1925-30]

out/ri/val, v.t.
out/roar/, v.t.
out/rush/, n.
out/score/, v.t., -scored, -scoring.

out/shout/, v.t.
out/sleep/, v.t., -slept, -sleep-ing.
out/stide/, v.t., -strode, -strid-den, -strid-ing.

out/swim/, v., -swam, -swum,
-swim-ming.
out/throw/, v.t., -threw, -thrown,
-throw-ing.

out/trade/, v.t., -trad-ed,
-trad-ing.
out/trav-el/, v.t., -eled, -el-ing.
out/trick/, v.t.

BLACK'S LAW DICTIONARY®

Definitions of the Terms and Phrases of
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By

HENRY CAMPBELL BLACK, M. A.

SIXTH EDITION

BY

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WEST PUBLISHING CO.

1990

1496

ness or commercial character. *Corral Wodis-Kolb v. Chrysler*

contacts.

Concept of "transactions of Investment 1933, and Securities business activity under a "do-standard, and is broader meaning *Orn v. Anderson*,

In the civil law, controversy, by the without referring such a suit, either was forborne or

ducting any business negotiation; that element, or several parties whereby a acts occur. *Miles 23, 227*. It may rtgaging or lending whereby a cause consist of an act reements having which more than h the legal relations are altered. It ffman Machinery 90, 96 P.2d 661, e; Transact.

1 witness and a cluding evidence variety of affairs tions, interviews, l includes every e impressions or n, or language of witness and deestify of his own v. Janssen, 144 sonal or mutual ous actively par-

(Immunity from

1.R.Civil P. 13(a) mpulsory counter- ng party's claim. e words should be her the general to avoid multiple

1497

suits and to encourage the determination of the entire controversy among the parties. Thus, the "transaction" test does not require the court to differentiate between opposing legal and equitable claims or between claims in tort and those in contract. Most courts, rather than attempting to define the key terms of Rule 13(a) precisely, have preferred to suggest standards by which the compulsory or permissive nature of specific counterclaims can be determined. Four tests have been suggested: (1) Are the issues of fact and law raised by the claim and counterclaim largely the same? (2) Would res judicata bar a subsequent suit on defendant's claim absent the compulsory counterclaim rule? (3) Will substantially the same evidence support or refute plaintiff's claim as well as defendant's counterclaim? (4) Is there any logical relation between the claim and the counterclaim? *Old Homestead Co. v. Continental Baking Co.*, 47 F.R.D. 560, 563. See Counterclaim (*Compulsory counterclaim*).

Cross-claims. Most courts have held that the above standards used for dealing with the "transaction or occurrence" test for compulsory counterclaims also apply to cross-claims under Fed.R.Civil P. 13(g). *Old Homestead Co. v. Continental Baking Co.*, 47 F.R.D. 560, 563. See Cross-claim.

Transazione /tranzàtsiyówney/. An Italian term which technically refers to an instrument whereby parties agree to put an end to a dispute by means of mutual concessions and is the equivalent of "transactio" under the Roman law, the principles of which have been carried into the common law and are found in agreements of accord and satisfaction and compromise and settlement.

Transcript. That which has been transcribed. A copy of any kind, though commonly the term refers to a copy of the record of a trial, hearing or other proceeding as prepared by a court reporter. A writing made from or after an original. A copy of an original writing or deed and suggests the idea of an original writing. *O'Quinn v. Tate*, Tex.Civ.App., 187 S.W.2d 241, 243.

An official copy of the record of proceedings in a trial or hearing. Word-for-word typing of everything that was said "on the record" during the trial. The stenographer (court reporter) types this transcription which is paid for by the parties requesting it.

Transcript of record. Refers to the printed record as made up in each case of the proceedings and pleadings necessary for the appellate court to review the history of the case.

Transcriptio pedis finis levati mittendo in cancellarium /trànskripsh(iy)ow piydəs fáynəs ləvéytay məténdow in kànsəlériyám/. A writ which certified the foot of a fine levied before justices in eyre, etc., into the chancery.

Transcriptio recognitionis factæ coram justiciariis itinerantibus, etc. /trànskripsh(iy)ow rəkəgnishiyównəs fáktiý kórəm jəstishiyériýəs aytinərəntəbəs/. An old writ to certify a cognizance taken by justices in eyre.

TRANSFeree LIABILITY

Transfer, v. To convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically, to change over the possession or control of (as, to transfer a title to land). To sell or give. *Chappell v. State*, 216 Ind. 666, 25 N.E.2d 999, 1001.

Transfer, n. An act of the parties, or of the law, by which the title to property is conveyed from one person to another. The sale and every other method, direct or indirect, of disposing of or parting with property or with an interest therein, or with the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise. The word is one of general meaning and may include the act of giving property by will. *Hayter v. Fern Lake Fishing Club*, Tex.Civ.App., 318 S.W.2d 912, 915.

The assignment or conveyance of property, including an instrument or document, that vests in the transferee such rights as the transferor had therein. See U.C.C. §§ 3-201(1) & 7-504(1). Transfer is the all-encompassing term used by the Uniform Commercial Code to describe the act which passes an interest in an instrument to another. *Scheid v. Shields*, 269 Or. 236, 524 P.2d 1209, 1210.

Transfer means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption. Bankruptcy Code § 101.

See Barter; Constructive transfer; Exchange; Gift; Sale; Will.

Transferable. A term used in a *quasi* legal sense, to indicate that the character of assignability or negotiability attaches to the particular instrument, or that it may pass from hand to hand, carrying all rights of the original holder. The words "not transferable" are sometimes printed upon a ticket, receipt, or bill of lading, to show that the same will not be good in the hands of any person other than the one to whom first issued.

Transfer agent. An organization, usually a bank, that handles transfers of shares for a publicly held corporation. Generally, a transfer agent assures that certificates submitted for transfer are properly endorsed and that there is appropriate documentation of the right to transfer. The transfer agent issues new certificates and oversees the cancellation of the old ones. Transfer agents also usually maintain the record of shareholders for the corporation and mail dividend checks.

Transferee. He to whom a transfer is made.

Transferee liability. Under certain conditions, if the Internal Revenue Service is unable to collect taxes owed by a transferor of property, it may pursue its claim against the transferee of such property. The transferee's liability for taxes is limited to the extent of the value of the assets transferred. For example, the Internal Revenue Service can force a donee to pay the gift tax

DICTIONARY REFERENCES

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BY NOAH WEBSTER

VOLUME I

With an Introduction by
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JOHNSON REPRINT CORPORATION

NEW YORK AND LONDON

1970

DICTIONARY REFERENCES

The edition reproduced here was originally
published in 1828

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Library of Congress Catalog Card Number 77-117409

Printed in the U.S.A.

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- I. THE ORIGIN, AFFINITIES AND PRIMARY SIGNIFICATION OF ENGLISH WORDS, AS FAR AS THEY HAVE BEEN ASCERTAINED.
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TO WHICH ARE PREFIXED,
AN INTRODUCTORY DISSERTATION
ON THE
ORIGIN, HISTORY AND CONNECTION OF THE
LANGUAGES OF WESTERN ASIA AND OF EUROPE,
AND A CONCISE GRAMMAR
OF THE
ENGLISH LANGUAGE.

BY NOAH WEBSTER, LL. D.

IN TWO VOLUMES.

VOL. I.

He that wishes to be counted among the benefactors of posterity, must add, by his own toil, to the acquisitions of his ancestors.—*Rambler*.

NEW YORK:
PUBLISHED BY S. CONVERSE.

PRINTED BY HEZEKIAH HOWE—NEW HAVEN.

1828.

T R A

2. Elevation above truth; exaggeration.

TRANSCEND'ENT, *a.* [L. *transcendens*.] *Bacon.*
Very excellent; superior or supreme in excellence; surpassing others; as *transcendent* worth; *transcendent* valor.
Cloth'd with *transcendent* brightness.

TRANSCENDENT'AL, *a.* Supereminent; surpassing others; as *transcendental* being or qualities. *Grew.*

Transcendental quantities, among geometricians, are indeterminate ones, or such as cannot be expressed or fixed to any constant equation.

Transcendental curve, is such as cannot be defined by any algebraic equation, or of which, when it is expressed by an equation, one of the terms is a variable quantity. *Cyc.*

TRANSCEND'ENTLY, *adv.* Very excellently; supereminently; by way of eminence.

The law of christianity is eminently and *transcendently* called the word of truth. *South.*

TRANS'COLATE, *v. t.* [L. *trans* and *colo*, to strain.]
To strain; to cause to pass through a sieve or colander. *Harvey.*

TRANSCRI'BE, *v. t.* [L. *transcribo*; *trans*, over, and *scribo*, to write.]
To copy; to write over again or in the same words; to write a copy of any thing; as, to *transcribe* Livy or Tacitus; to *transcribe* a letter.

TRANSCRI'BED, *pp.* Copied.
TRANSCRI'BER, *n.* A copier; one who writes from a copy. *Addison.*

TRANSCRI'BING, *ppr.* Writing from a copy; writing a copy.

TRANSCRIPT, *n.* [L. *transcriptum*.] A copy; a writing made from and according to an original; a writing or composition consisting of the same words with the original.

The decalogue of Moses was but a *transcript*, not an original. *South.*

2. A copy of any kind.
The Roman learning was a *transcript* of the Grecian. *Glanville.*

TRANSCRIP'TION, *n.* [Fr.] The act of copying. Corruptions creep into books by repeated *transcriptions*.

TRANSCRIPT'IVELY, *adv.* In manner of a copy. *Brown.*

TRANSCUR', *v. i.* [L. *transcurro*; *trans* and *curro*, to run.]
To run or rove to and fro. [*Little used.*] *Bacon.*

TRANSCUR'SION, *n.* [*supra.*] A rambling or ramble; a passage beyond certain limits; extraordinary deviation; as the *transcursion* of a comet. *More.*

I am to make often *transcursions* into the neighboring forests as I pass along. *Howell.*

[*Note.* *Excursion* has in a great measure superseded this word.]

TRANSDUC'TION, *n.* [L. *trans* and *duco*.] The act of conveying over. *Entick.*

TRANSE, *n.* Ecstasy. [See *Trance*.]

TRANSELEMENTA'TION, *n.* [*trans* and *element*.]

The change of the elements of one body into those of another, as of the bread and wine into the actual body and blood of Christ; transubstantiation. *Burnet.*

T R A

TRAN'SEPT, *n.* [L. *trans* and *septum*.] In ancient churches, the aisle extending across the nave and main aisles. *Cyc.*

TRANSFER', *v. t.* [L. *transfero*; *trans* and *fero*, to carry.]

1. To convey from one place or person to another; to transport or remove to another place or person; as, to *transfer* the laws of one country to another. The seat of government was *transferred* from New York to Albany. We say, a war is *transferred* from France to Germany. Pain or the seat of disease in the body, is often *transferred* from one part to another.

2. To make over; to pass; to convey, as a right, from one person to another; to sell; to give. The title to land is *transferred* by deed. The property of a bill of exchange may be *transferred* by indorsement. Stocks are *transferred* by assignment, or entering the same under the name of the purchaser in the proper books.

TRANSFER, *n.* The removal or conveyance of a thing from one place or person to another.

2. The conveyance of right, title or property, either real or personal, from one person to another, either by sale, by gift or otherwise.

TRANSFER'ABLE, *a.* That may be transferred or conveyed from one place or person to another.

2. Negotiable, as a note, bill of exchange or other evidence of property, that may be conveyed from one person to another by indorsement or other writing. The stocks of the public and of companies are *transferable*.

TRANSFER'RED, *pp.* Conveyed from one to another.

TRANSFER'REE', *n.* The person to whom a transfer is made. *Hamilton.*

TRANSFER'ER, *n.* One who makes a transfer or conveyance.

TRANSFER'ING, *ppr.* Removing from one place or person to another; conveying to another, as a right.

TRANSFIGURA'TION, *n.* [Fr. See *Transfigure*.]

1. A change of form; particularly, the supernatural change in the personal appearance of our Savior on the mount. See Matt. xvii.

2. A feast held by the Romish church on the 6th of August, in commemoration of the miraculous change above mentioned. *Cyc.*

TRANSFIG'URE, *v. t.* [L. *trans* and *figura*; Fr. *transfigurer*.]
To transform; to change the outward form or appearance.

—And was *transfigured* before them. Matt. xvii.

TRANSFIG'URED, *pp.* Changed in form.

TRANSFIG'URING, *ppr.* Transforming; changing the external form.

TRANSFIX', *v. t.* [L. *transfixus*, *transfigo*; *trans* and *figo*.]
To pierce through, as with a pointed weapon; as, to *transfix* one with a dart or spear. *Dryden.*

TRANSFIX'ED, *pp.* Pierced through.

TRANSFIX'ING, *ppr.* Piercing through with a pointed weapon.

TRANSFORM', *v. t.* [Fr. *transformer*; L. *trans* and *forma*.]

T R A

1. To change the form of; to change the shape or appearance; to metamorphose; as a caterpillar *transformed* into a butterfly.

2. To change one substance into another; to transmute. The alchemists sought to *transform* lead into gold.

3. In *theology*, to change the natural disposition and temper of man from a state of enmity to God and his law, into the image of God, or into a disposition and temper conformed to the will of God.

Be ye *transformed* by the renewing of your mind. Rom. xii.

4. To change the elements, bread and wine, into the flesh and blood of Christ. *Romish Church.*

5. Among the *mystics*, to change the contemplative soul into a divine substance, by which it is lost or swallowed up in the divine nature.

6. In *algebra*, to change an equation into another of a different form, but of equal value.

TRANSFORM', *v. i.* To be changed in form; to be metamorphosed.

His hair *transforms* to down. *Addison*

TRANSFORMA'TION, *n.* The act or operation of changing the form or external appearance.

2. Metamorphosis; change of form in insects; as from a caterpillar to a butterfly.

3. Transmutation; the change of one metal into another, as of copper or tin into gold.

4. The change of the soul into a divine substance, as among the *mystics*.

5. Transubstantiation.

6. In *theology*, a change of heart in man, by which his disposition and temper are conformed to the divine image; a change from enmity to holiness and love.

7. In *algebra*, the change of an equation into one of a different form, but of equal value. *Cyc.*

TRANSFORM'ED, *pp.* Changed in form or external appearance; metamorphosed; transmuted; renewed.

TRANSFORM'ING, *ppr.* Changing the form or external appearance; metamorphosing; transmuting; renewing.

2. *a.* Effecting or able to effect a change of form or state; as the *transforming* power of true religion.

TRANSFREIGHT, *v. i.* *transfra'te*. To pass over the sea. [*Not in use.*] *Waterland.*

TRANSFRET'A'TION, *n.* [L. *trans* and *fretum*, a strait.]

The passing over a strait or narrow sea. [*Little used.*] *Davies.*

TRANSFUSE, *v. t.* *transfu'ze*. [L. *transfusus*, *transfundo*; *trans* and *fundo*.]

1. To pour, as liquor, out of one vessel into another.

2. To transfer, as blood, from one animal to another.

3. To cause to pass from one to another; to cause to be instilled or imbibed; as, to *transfuse* a spirit of patriotism from one to another; to *transfuse* a love of letters.

TRANSFU'SED, *pp.* Poured from one vessel into another.

TRANSFU'SIBLE, *a.* That may be transfused, &c. *Boyle.*

TRANSFU'SING, *ppr.* Pouring out of one vessel into another; transferring.